

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

December 16, 2009

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B5200312
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR The Computer Solution Company 1525 Huguenot Road Midlothian, VA 23113 Dr2@TCSC.com	TELEPHONE (804) 794-3491 David Romig II
	VENDOR NUMBER/MAIL CODE (001)
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Barb Suska Laboratory and Case Management System – DIT/MSP - Forensic Science Division	
CONTRACT PERIOD: From: June 9, 2005 To: June 30, 2010	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effective immediately this contract is hereby **EXTENDED** to June 30, 2010 and **INCREASED** by \$128,922.50. All other terms, conditions, specifications, and pricing remain the same.

AUTHORITY/REASON:

Per agency and vendor agreement and approval of the State Administrative Board on 12/15/2009.

INCREASE: \$128,922.50

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$890,675.57

TCSC

The Computer Solution Company

TCSC - The Computer Solution Company
 1525 Huguenot Road
 Midlothian, VA 23113
 804.794.3491 Fax: 804.794.6194

Quotation

Date Issued: July 21, 2010

To: Michigan State Police
 Attn: Inspector Tom Dirlam
 email:

End User : Michigan Department of State Police

Quote Date	Requisitioner	Ship VIA	Date Needed	Terms
4/13/2009	Pete Eklund			Net 30
QTY	Unit	Description	Unit Price	Total
250	Client Licenses	Annual Maintenance for FA Client Licenses 5X8 Maintenance and Support Contract Period 1-1-2010 thru 12-31-2010	\$165.75	\$41,437.50
9	Server Licenses	Annual Maintenance for FA Server Licenses 5X8 Maintenance and Support Contract Period 1-1-2010 thru 12-31-10	\$4,165.00	\$37,485.00
1	Services	The proprietary services to be drawn from this contract for up to \$50,000 for the period 1-1-2010 to 12-31-2010 will be dependent on individual and mutually agreed upon statement(s) of work between The Computer Solution Company (TCSC) and the State of Michigan. Once agreed to TCSC shall not be obligated or authorized to commence any work to implement a statement of work until authorized via a purchase order against this contract. Contract Period 1-1-2010 thru 12-31-2010	\$50,000.00	\$50,000.00
<input type="checkbox"/> Standard Shipment <input type="checkbox"/> Blind Drop Ship			SUBTOTAL	\$128,922.50
COMMENTS:			SALES TAX	
			TOTAL	\$128,922.50

- To authorize this quote as an order please sign below
- Send all correspondence to:
 TCSC, Inc.
 1525 Huguenot Road, Midlothian, VA 23113
 Fax: 804.794.6194

Authorized by _____

Date _____

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

May 21, 2008

CHANGE NOTICE NO. 1
 TO
 CONTRACT NO. 071B5200312
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR The Computer Solution Company 1525 Huguenot Road Midlothian, VA 23113 Dr2@TCSC.com	TELEPHONE (804) 794-3491 David Romig II
	VENDOR NUMBER/MAIL CODE (001)
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Barb Suska Laboratory and Case Management System – DIT/MSP - Forensic Science Division	
CONTRACT PERIOD: From: June 9, 2005 To: December 31, 2009	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effective immediately this contract is hereby EXTENDED to December 31, 2009. All other terms, conditions, specifications, and pricing remain the same.

Please note: The State of Michigan Contract Compliance Inspector has been changed

Name: Barb Suska
Telephone: (517) 335-4067
E-mail: SuskaB2@michigan.gov

Overview of Extension

<input checked="" type="checkbox"/>	Extension	(6/10/08 – 12/31/08)
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AUTHORITY/REASON:

Per agency and vendor agreement.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$699,428.07



The Computer Solution Company

May 9, 2008

Barbara J. Suska
Contract Administrator
Michigan Department of Information Technology Strategic Portfolio Office
525 W. Allegan Street
Constitution Hall, 1st Floor North Tower Lansing, MI 48913
517-335-4067 (Office)
517-241-8852 (Fax)
suskab2@michigan.gov

Ms. Suska,

TCSC is in agreement to extend the current contract end date on State of Michigan contract 071B5200312 to 12/31/08 to coterminate with the current maintenance and purchase order.

Sincerely,

A handwritten signature in black ink, appearing to read 'DR2', is written over a light blue horizontal line.

David P. Romig II
President

DR2

1525 Huguenot Road
Midlothian, VA 23113-2426

Phone: 804.794.3491
Fax: 804.794.6194
Web: www.tcsc.com

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

June 10, 2005

NOTICE
TO
CONTRACT NO. 071B5200312
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR The Computer Solution Company 1525 Huguenot Road Midlothian, VA 23113	TELEPHONE (804) 794-3491 David Romig II
	VENDOR NUMBER/MAIL CODE (001)
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Jim Flowers Laboratory and Case Management System – DIT/MSP - Forensic Science Division	
CONTRACT PERIOD: From: June 9, 2005 To: June 9, 2008	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

The terms and conditions of this Contract are those of [RFP #CDPS2005-002](#), this Contract Agreement and the vendor's quote dated [04/27/2005](#). In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$699,428.07**

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

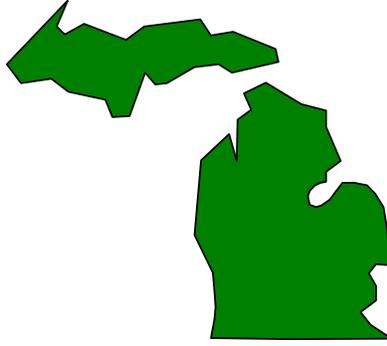
**CONTRACT NO. 071B5200312
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR <p style="text-align: center;">The Computer Solution Company 1525 Huguenot Road Midlothian, VA 23113</p>	TELEPHONE (804) 794-3491 David Romig II VENDOR NUMBER/MAIL CODE (001) BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Jim Flowers <p style="text-align: center;">Laboratory and Case Management System – DIT/MSP - Forensic Science Division</p>	
CONTRACT PERIOD: From: June 9, 2005 To: June 9, 2008	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are those of RFP #CDPS2005-002, this Contract Agreement and the vendor's quote dated 04/27/2005. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</p>	
Estimated Contract Value: \$699,428.07	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the [RFP No. CDPS2005-002](#). A Purchase Order Form will be issued only as the requirements of the State Departments are submitted to Acquisition Services. Orders for delivery may be issued directly by the State [Departments](#) through the issuance of a Purchase Order Form.

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

<p>FOR THE VENDOR:</p> <p style="text-align: center;">The Computer Solution Company _____ Firm Name</p> <p style="text-align: center;">_____ Authorized Agent Signature</p> <p style="text-align: center;">_____ Authorized Agent (Print or Type)</p> <p style="text-align: center;">_____ Date</p>	<p>FOR THE STATE:</p> <p style="text-align: center;">_____ Signature Anthony J. DesChenes _____ Name Director, Commodities Division _____ Title</p> <p style="text-align: center;">_____ Date</p>
--	--



**STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services**

Contract No. [071B5200312](#)
[Laboratory and Case Management System \(LCMS\)](#)

Buyer Name: [Steve Motz](#)
Telephone Number: [\(517\) 241-3215](#)
E-Mail Address: Motzs@michigan.gov



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**Article 1 – Statement of Work (SOW)****1.0 Project Identification****1.001 PROJECT REQUEST**

The Michigan Department of State Police (MSP), Forensic Science Division (FSD), and Michigan Department of Information Technology (DIT) headquartered in Lansing, MI, intends to purchase a Commercial-Off-The Shelf (COTS) Laboratory and Case Management System (LCMS), that will require customization and support services, as part of an ongoing program to improve the quality and efficiency of their operations. The contractor will provide: installation, configuration, customization, training, analytical instrument interfacing, data conversion support, a documented configuration management methodology, deployment consulting, all associated documentation, maintenance, and implementation assistance.

1.002 BACKGROUND

The Michigan Department of State Police (MSP), Forensic Science Division (FSD), and Michigan Department of Information Technology (DIT) are in need of Support Services from the contractor to provide and support the application on State of Michigan devices and servers that will be put to use in seven laboratories providing analysis support services to all Michigan municipalities. The vendor will provide software installation and support services as well as consultation on what necessary hardware is needed in association with FSD and DIT.

The FSD forensic analytical facilities consist of the Lansing Laboratory and six other laboratories located at Grand Rapids, Sterling Heights, Northville, Grayling, Bridgeport and Marquette, and ten additional locations which provide polygraph testing services. The FSD facilities and staff are equipped and trained to fulfill the forensic analysis needs of federal, county and municipal juris agencies throughout the State. The Lansing Laboratory provides some unique analytical services among the FSD laboratories.

The primary mission work performed by the FSD laboratories supports criminal investigation efforts of the MSP, federal and other State, County, and Municipal police organizations. Evidence delivered by organizations is held by the FSD, analyzed, and reported. Evidence is received from county sheriff departments, municipal police, fire departments, and MSP investigators. Usually evidence is analyzed in the receiving laboratory but special requirements are supported in the Lansing laboratory and, occasionally, by Michigan State University botanists and other scientists.

The LCMS shall maintain records for the multiple programs within the laboratory departments, as well as include the ability to expand as needs arise in the future.

The LCMS shall become a central repository for all laboratory measurements that are collected from all the data sources identified in this document. The information shall be in standardized formats and shall be accessible FSD wide.

The FSD laboratories are organized as units focused on specific types of evidence. Senior analysts, called Program Coordinators, lead the quality improvement efforts of each unit.

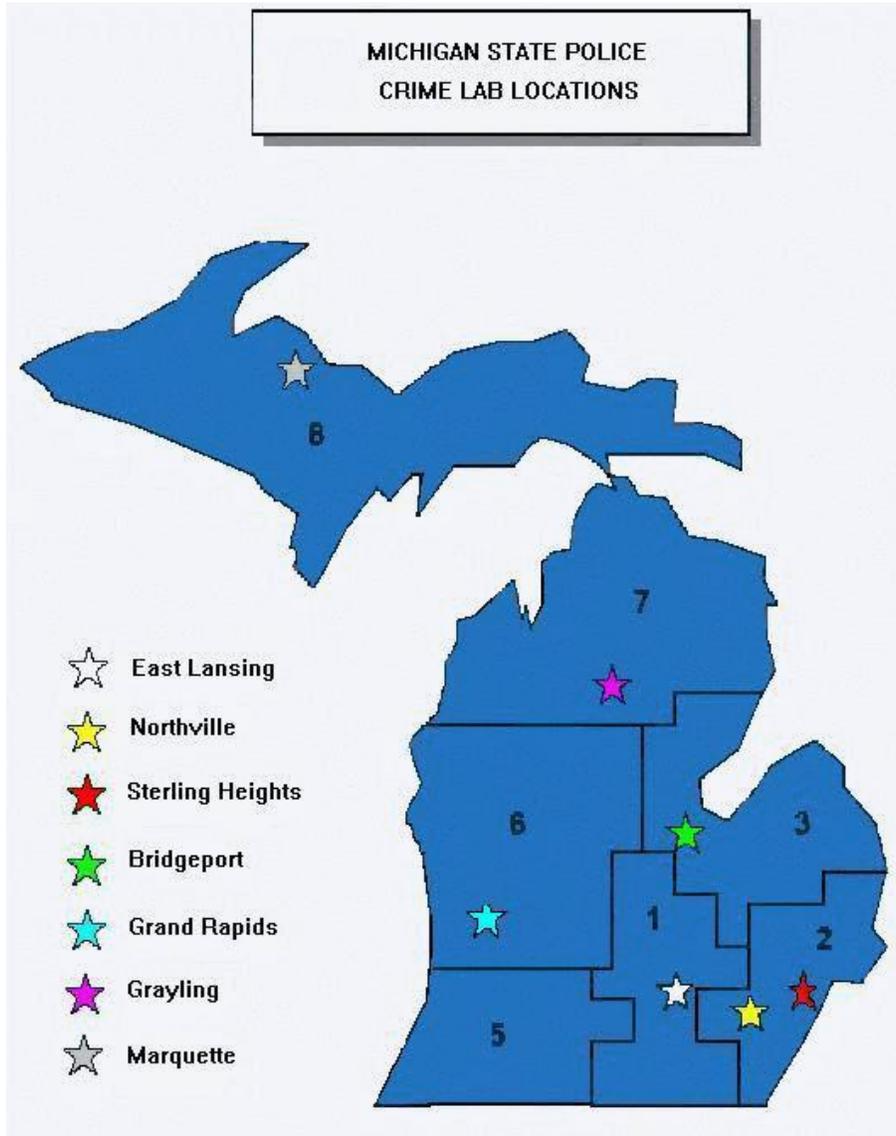
Analytical methodologies are performed in conformance with State of Michigan and American Society of Crime Laboratory Directors (ASCLD) guidelines. Analytical capabilities provided at each laboratory include:

- Lansing – Biology (DNA), Blood Alcohol, Firearms, Latent Prints, Micro Chemistry, Drug Analysis, Polygraph, Questioned Documents, and Toxicology.
- Bridgeport – Firearms, Latent Prints, Micro Chemistry, Drug Analysis, and Polygraph
- Grand Rapids - Biology (DNA), Firearms, Latent Prints, Micro Chemistry, Drug Analysis, and Polygraph
- Grayling – Firearms, Latent Prints, Micro Chemistry, Drug Analysis, and Polygraph
- Marquette – Firearms, Latent Prints, Drug Analysis, and Polygraph



- Northville - Biology (DNA), Firearms, Latent Prints, Micro Chemistry, Drug Analysis, and Polygraph
- Sterling Heights – Firearms, Latent Prints, Micro Chemistry, Drug Analysis, and Polygraph
- Other Sites - Polygraph (in State and other remote offices)

Evidence is received from federal, county sheriff departments, municipal police, fire departments, and MSP investigators. Usually evidence is analyzed in the receiving laboratory. Special requirements are supported in the Lansing laboratory and, occasionally, by University of Michigan botanists and other scientists.



1.1 Scope of Work and Deliverables

1.101 IN SCOPE

The Michigan Department of State Police (MSP), Forensic Science Division (FSD), and Michigan Department of Information Technology (DIT) headquartered in Lansing, MI, intends to purchase a Commercial-Off-The Shelf (COTS) Laboratory and Case Management System (LCMS) as part of an ongoing program to improve the quality and efficiency of their operations.

MSP and DIT would like to partner with the contractor to perform the requested services. The five recognized phases include

**Phase I - Discovery Phase (to be completed within 3 months of contract signing):**

- Security and role-based access design specifications Vision/Scope Statement...review legacy systems and document short-term scope of the engagement and long-term vision of the system and its anticipated impact on FSD.
- Hardware and infrastructure configuration specification Business Requirements Statement, which will detail FSD policy, procedures and processes as they relate to areas being addresses by the anticipated system.
- Gap Analysis Statement which will specify differences between FSD prepared Business Requirements and the COTS product, identifying alternatives for addressing such differences.
- Review and Assessment of Standard Operating Procedures. Contractor will review current SOPs and collaborate regarding proposed changes in order to accommodate changes precipitated by system implementation.
- Conceptual Design Plan to address high-level solution design.
- Physical Design Plan to outline hardware and software configuration requirements.
- Master Project Plan to solidify project and staffing plan for remainder of engagement.

Phase II - Design/Specification Phase (to be completed within 6 months of contract signing):

- Functional Specification/Design to respond to FSD prepared Business Requirements, including design of proposed resolutions to identified differences.
- Development Plan to communicate development and customization activities and points requiring customer interaction and/or user acceptance.
- Functional Specification – Remote Logging...document a user-oriented approach to configuration and day-to-day use of the Remote Logging component.
- Functional Specification – Reporting...provide specifications for management reports, analyst reports and other system outputs.
- Training Plan. Define materials and schedule for providing user and administrator training.
- Test Specifications to document expectations, acceptance criteria and user scenarios.

Phase III - Development/Implementation Phase (to be completed within 6 months of contract signing):

- User Acceptance Test and PARE Plan. Will schedule and coordinate acceptance tests for each module as defined by Test Specifications.
- Pilot Plan to outline schedule and procedure for handling a pilot installation in advance of production deployment.
- Data Migration Plan to define data migration requirements and techniques for ensuring accurate and comprehensive data migration.
- User Documentation, including areas of FSD-specific customization.
- System Administrator Documentation, including areas of FSD-specific customization.
- User Training Materials, including areas of FSD-specific customization.
- System Administrator Training Materials, including areas of FSD-specific customization.
- Deployment & Operations Guide to outline techniques for timely deployment and ongoing system administration and operations.

Phase IV - Production Preparation/Training Phase (to be completed within 6 months of contract signing):

- User and System Administrator Training to perform user and system administrator training.
- User Acceptance and PARE Testing to facilitate User Acceptance Testing
- Pilot Testing, facilitate and support Pilot Testing.
- Support Plan to address alternative methods for providing user and administrator support.

Phase V – Enterprise Deployment and Enhancements:

- Product Deployment. Enterprise deployment and installation of application.
- Data Migration. Timely and comprehensive migration of legacy data.
- System Support and Maintenance to provide ongoing support and maintenance of solution.



- Backup and Recovery Plan. Prescriptive guidance regarding proper system backup and recovery methodologies.
- Post Project Analysis. Review engagement, outlining opportunities for improving ongoing communication and support (Lessons Learned).
- Additional functionality including subpoenas and court time tracking, lab safety monitoring, chemical inventory tracking, and instrumentation interfacing

The services and expertise being contracted for this Project, as mentioned previously, include: installation, configuration, customization, training, data conversion support, a documented configuration management methodology, reporting, deployment consulting, all associated documentation, maintenance, implementation assistance, and analytical instrument interfacing.

The contractor must provide separate pricing for one year of ongoing maintenance and support, including product upgrades, assistance in applying said upgrades, and other forms of ongoing support and maintenance.

The scope of this contract is to provide and support all of the functional components and phases that make up the LCMS system.

Long-term needs considered to be in scope, and to be supplied within one year of contract signing, will include:

- Subpoenas and court time tracking ability
- Lab safety monitoring ability
- Chemical inventory capability
- Integration with instruments

1.102 OUT OF SCOPE

Any services that are outside of the delivery of a LCMS would be out of scope.

1.103 TECHNICAL ENVIRONMENT

The solution will address the following technical requirements:

- Localized databases at each lab with the “sync” capability with the central lab database
- A single centralized database with fail-over mechanism
- Integrated system across all labs including local and central database synchronization
- Proven ODBC database system such as SQL Server
- Proven security such as encrypted file system and/or rights management
- Hardware, software and connectivity as per State of Michigan standards
- Built on open foundation such as using XML
- User friendly GUI
- User friendly documentation
- Data dictionary included in documentation
- Test system for testing, upgrades and training
- Easy to use ad hoc reporting for administrators and end users
- Support standards including guaranteed response times and procedures
- Backup server capacity
- Disaster recovery capabilities
- Electronic signatures
- Remote submission evidence logging
- Remote report access
- Email, fax and barcodes
- Security and role based access
- System Support and maintenance



All software and hardware items provided or recommended by the contractor must run on and be compatible with the MSP Standard Information Technology Environment for development, testing and production environments. MSP technical environment as described below:

1.1031 Data Processing Environment

The LCMS shall operate within the data processing environment of the MSP.

1.1031.1 Server and Client Operating Systems

All servers will be configured for Microsoft Windows 2000 Server. Newer Microsoft Windows server operating systems may be used for the server if required. All server operating systems will be patched as required by the LCMS vendor, or required by State computer security whichever is higher, so long as it is still compatible with SOM environment. Client workstation operating systems will be Windows XP professional SP1 or more recent, so long as "more recent" is still compatible with SOM environment. Workstation operating systems will be patched to the higher level of LCMS vendor requirement or State computer security, so long as "or higher" is still compatible with SOM environment.

Laboratory instrument control computers are not considered LCMS workstations and will use only the operating systems required by the instrument vendor and will only be patched as required by the instrument vendor. The LCMS user interface (client) application will not be run on any instrument control computer.

1.1031.2 System Data Storage

The contractor shall install and utilize a server-based central database, located in a State facility, and separate databases at each laboratory. The databases shall be Open Database Connectivity (ODBC) compliant and Structured Query Language (SQL) compliant that can be expanded and modified by the FSD and DIT. The LCMS shall allow multiple users to access the data simultaneously for data entry and retrieval without locking each other out. The contractor shall provide any necessary drivers for interaction between the user interface and the System database. The System database shall be provided complete with tools for database management, archiving, and restoring from archive. Tools to perform these functions should be included with the System (including the cost of 3rd party licenses). DIT currently utilizes Veritas Backup Exec. for SQL Server backup and restore functions. The contractor shall provide documentation on the application's ability to restore archived records, stored on either internal or external devices, to the active application without taking the LCMS off-line. FSD and DIT should be able to perform routine incremental and full backup.

1.1031.2.1 Laboratory Database

The contractor shall install LCMS capability, including application and database, for each laboratory in such a manner to allow each laboratory to function independently of all other MSP laboratories. The LCMS shall use Microsoft SQL Server database software. Sensitive information in the LCMS must be encrypted when it is stored and/or transmitted.

1.1031.2.2 Central Database

The contractor shall install a central LCMS database that contains all relevant information from all laboratory databases. The contractor may include other LCMS information required to maintain data consistency among the data in the central and laboratory databases. The information between the central database and each laboratory database shall be synchronized every night. A "warm" (online redundant server) server shall also be installed to provide redundancy in the system. The LCMS shall use Microsoft SQL Server database software. Sensitive information in the LCMS must be encrypted.

1.1031.3 Data Backup and Storage

The LCMS system shall backup and archive data and all files to a suitable media such as magnetic tape, archive server and/or recordable media (DVD/CD-RW). This information shall be organized to facilitate retrieval of specific data. The media to be used will need to be finalized after hardware, infrastructure design, and application knowledge is gained by DIT.

1.1031.4 WAN / LAN

Each laboratory has computers that are networked using an Ethernet twisted-pair LAN that is connected to a WAN. The FSD uses a Novell Server networking environment. The networking protocol will be TCP/IP. The LCMS shall interoperate with Novell file and printer access methods. The contractor cannot assume that MSP



will be migrated under the state's Michigan One plan before the implementation of their application. The LCMS shall, preferably, work in a "cached" environment in case of unavailability of the LAN/WAN network.

1.1031.5 Microsoft Windows

Laboratory workstations will use the Microsoft Windows XP operating system with SP1 and Microsoft Office Professional XP or higher office automation products (so long as higher office products are backwards compatible). The LCMS shall support transfer of data between the LCMS and office automation products via generally accepted data sharing technologies.

1.1031.6 Software / Infrastructure Boundaries

This environment language is provided specifically to define LCMS software and related services and hardware to support the laboratory enterprise. The contractor shall identify hardware and infrastructure requirements to support the laboratory enterprise. The MSP FSD will provide all necessary infrastructure components required by the contractor. The contractor shall identify and coordinate with DIT for any specific hardware (other than client PC's, printers or barcodes) required to support the LCMS.

1.1031.6.1 Web Servers

The LCMS shall be able to generate reports and other information in the form of HTML files (reporting requirements may differ in format in the following document – all are applicable) that can be served by MSP FSD web servers for official access. The contractor shall ensure LCMS-created HTML files will be viewable in Microsoft Internet Explorer 6.0. The contractor will work with the MSP in configuring such servers.

1.1031.6.2 Database

The LCMS shall use Microsoft SQL Server database software. The contractor is to make a recommendation as to the database licensing which would be in the best interest monetarily to the State (Enterprise vs. Per User).

1.1031.6.3 Desktop Software

The LCMS shall make use of Microsoft Office 2003 and related tools to increase the user's productivity.

1.1031.6.4 Open Standards

The LCMS shall use open XML standards to support other open systems such as Global Justice XML Data Model in order to support integration with external systems.

1.104 WORK AND DELIVERABLE

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

The following is the analysis of the major requirements involved for developing the end product of this project. The Contractor is not, however, constrained from supplementing this listing with additional steps, subtasks or elements deemed necessary to permit the development of alternative approaches or the application of proprietary analytical techniques.

1.1041 General Functional Requirements

This section identifies requirements or constraints that apply to the entire MSP FSD Enterprise LCMS, herein referred to as 'the LCMS'. The LCMS includes any and all software, hardware and services delivered as a whole or as component parts of the proposed LCMS.

1.1042 Work

This section identifies requirements or constraints that apply to all the FSD labs. The LCMS shall include any and all software delivered as a whole or as component parts of the proposed system.

1.1042.1 System Design

The primary design of the LCMS shall support simultaneous users without degradation of system performance as users are incrementally added. The LCMS shall support a minimum of 200 licensed users (100 concurrent users) through any one LCMS server. The contractor shall include licensing to support the required number of users. The term "user" is defined for purposes of this contract as laboratory personnel actively addressing the



main LCMS application. It does not include instrument interfaces, persons accessing finished data, or peripheral devices.

LCMS shall demonstrate compliance with the industry standards and practices for receiving, documenting, storing, and retrieving evidence, chain of custody recording, and for evidence labeling and related documentation. Compliance shall be demonstrated through acceptance testing of the application.

The LCMS shall support users who are external to the FSD via MSP firewall access with appropriate security and encryption, subject to the limitations of the available bandwidth and DIT security standards. External users may include officers logging remote submissions or users from other FSD labs for the purpose of viewing reports. All network applications shall support Transmission Control Protocol/Internet Protocol (TCP/IP) standards.

The LCMS shall have an open architecture so that laboratory personnel or their delegates may make modifications and enhancements to the System as their business requirements change. The System shall be based on industry-standard, commercially available components and tools. The requirement for proprietary tools and components will not be accepted. The user interface screens and code must be configurable with commonly available tools.

1.1042.2 ASCLD / ISO 17025

The LCMS shall comply with all American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB) international and legacy accreditation criteria. The LCMS contractor shall deliver example procedures for operation and maintenance of the LCMS which the FSD may use to develop their own Standard Operating Procedures (SOP).

1.1042.3 System Security

The LCMS shall provide security to protect the integrity of the data. The security measures must be compatible with MSP supported operating system and database software. All security measures must adhere to the SOM DIT standards, or receive approval from DIT. These levels of security are described in the following sections:

1.1042.3.1 Database Security

The LCMS shall provide configurable security for sensitive information in the central database, including encryption. Any method of accessing sensitive information, whether through the LCMS application or external programs, shall require a login identifier and password with a minimum of 128 AES encryption. This security subsystem shall be capable of limiting accessibility to data access (e.g. read-only) or tasks (e.g. entry or editing) and be configurable based on user roles and responsibilities.

1.1042.3.2 LCMS Application Security

The LCMS application shall provide configurable security for all users of the application whether internal to the FSD or external. Each user must gain access to the application through the use of a unique login identification and password. Based upon the user's information, the application shall control which menus, screens, and functions within screens are available to that specific user. User security shall be configurable by an FSD employee serving as the system administrator. The LCMS shall provide distinction of user permissions by the type of user.

1.1042.3.3 Server Resources Security

The LCMS shall include configurable security for access to server / network resources such as printers, directories, and files. The LCMS shall interoperate with the Novell security paradigm for access to server resources.

1.1042.3.4 Intranet Access Security

The LCMS shall be capable and compatible with access via the MSP Intranet. Access via the Intranet must include appropriate security through firewall and virtual private network technology. The FSD shall ensure, with advice from DIT and the contractor, that the necessary infrastructure will provide the level of required security is available.

**1.1042.4 External User Interaction**

The LCMS shall allow access by users external to the FSD via the MSP firewall within the network boundaries with strict control over System access. Users who are part of the FSD operations or functioning as subcontractors or consultants for the FSD shall be able to access the System via the firewall. External users may include officers logging remote submissions, checking case status or users from other FSD labs for the purpose of viewing reports. The contractor, working with DIT, shall supply the technical specifications for secure access to the LCMS via the Internet.

1.1042.5 External Application Interaction

The LCMS shall be capable of interaction with Microsoft Office programs such as Word, Excel, Outlook, and Access for external use of system information. The LCMS shall provide appropriate security of the System information when accessed via external applications. The LCMS shall interact with the major FSD enterprise applications with ODBC compliant reporting tools for external use of LCMS information.

1.1042.6 Use of Bar Codes

The LCMS shall accept input from keyboard-attached (keyboard wedge) bar code reader, including 2D barcodes, devices for data entry of selected information such as evidence tracking and inventory, sample identification and laboratory standards for analysis. The LCMS shall generate bar code labels and bar code fields on printed reports for use in case, sample and report identification and any other areas where bar code labels will enhance user productivity.

1.1042.7 System Documentation

The contractor shall provide documentation of the LCMS design. This documentation shall include a design specification detailing system functionality as well as the design of the central database, work/data flow diagrams, and entity relationship diagrams as applicable. This documentation shall also contain all infrastructure relationships and interfaces for the system.

In concert with the design specification, the contractor shall include examples of the user interface to demonstrate methodology and style of the screens. The examples do not have to include all screens in the System, but a representative sample of the different screen paradigms to be used. The contractor shall also include examples of the various reports to be generated by the LCMS. The FSD will review the design specification and examples for the purpose of review and comment to the design.

In addition to the design specification, the final implementation of the LCMS shall include on-line access to a context-sensitive Help System that provides specific information about each screen in the application and a training plan that includes the course title, a summary of content, and state the position/qualifications of the target audience.

1.1042.8 System Administration

The contractor shall provide all utilities, tools and 3rd party software necessary for proper administration of the System (to be identified in the discovery phase). These tools shall cover management and administration of the System database, the user interface, and any auxiliary programs integrated into the System. The System shall not rely on proprietary technology or components.

LCMS shall include all source code for database development and the user interface, as well as any auxiliary programs integrated into the System. The contractor shall provide a list of recommended software for continued expansion of the System.

1.1042.9 System Warranty and Support

The contractor shall define the boundaries of the System Warranty. At a minimum, the System shall be warranted against deficiencies in functionality (as defined in the approved design specification) and defects in operation. The warranty period shall begin on the same date that the FSD completes system testing and places the LCMS into production. The initial warranty period will be one year.

The contractor will provide technical support through the following means:

1.1042.9.1 On-Site Support:

Option for one year of on-site support (travel expenses must be included as part of pricing proposed).

**1.1042.9.2 Telephone Support:**

The contractor must provide support between the hours of 8:00 AM and 5:00 PM Eastern Standard Time (EST), Monday through Friday via telephone. A minimum of one year of support is to be part of contract.

1.1042.9.3 File Transfer Protocol (FTP) Support:

The contractor shall provide update system components via FTP protocol.

1.1042.9.4 Remote Access Support:

The contractor will support via remote access support subject to appropriate security measures.

1.1042.9.5 User Support:

The contractor will provide an option for at least one year of user support via telephone. User telephone support shall be available between the hours of 8:00 AM and 5:00 PM Eastern Standard Time (EST), Monday through Friday. The one year of support shall start when the LCMS is placed in production.

1.1043 Laboratory Description

This section describes various aspects of FSD operations and how the LCMS is to function as an integral part of overall laboratory processes. The contractor's application must support the work-flow and the processes described here.

The primary mission of work performed by the FSD laboratories supports criminal investigation efforts of the MSP, federal and other State, County, and Municipal police organizations. Evidence delivered by organizations is held by the FSD, analyzed, and reported. The LCMS shall maintain records for the multiple programs within the laboratory departments, as well as include the ability to expand as needs arise in the future.

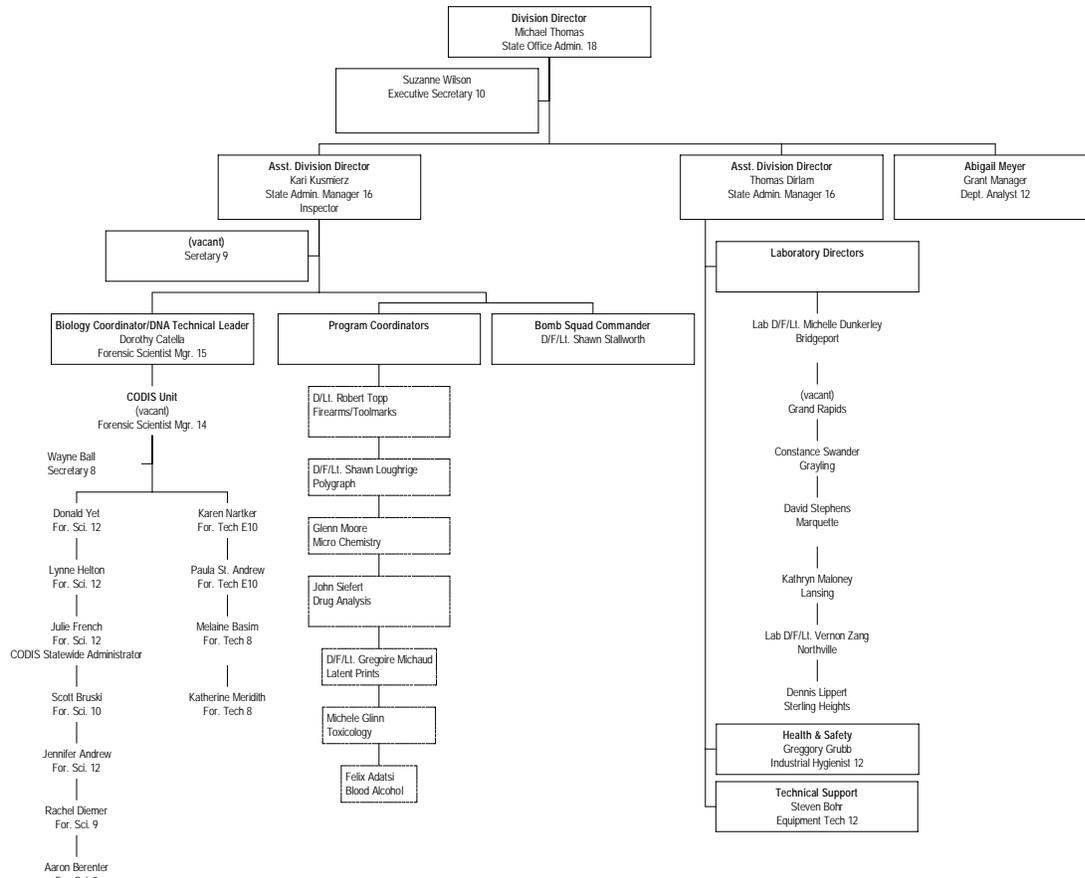
The LCMS shall be a central repository for all laboratory measurements that are collected from all the data sources identified in this document. The information shall be in standardized formats and shall be accessible FSD wide.

1.1043.1 Laboratory Facilities

The FSD operates seven laboratory facilities as shown in the following diagram. Each facility includes more than one forensic discipline or unit.

1.1043.2 Laboratory Units

The FSD laboratories are organized as units focused on specific types of evidence. Senior analysts, called Program Coordinators, lead the quality improvement efforts of each unit. The FSD is organized as shown in the following diagram.



1.1043.2.1 Evidence Management and Administration

Administrative personnel (and in some laboratories Evidence Technicians) receive and return evidence. Received evidence is placed in a central vault or into lock boxes for pickup by the assigned unit.

1.1043.2.2 Latent Prints

The Latent Print Units assign work on a rotational basis. Evidence may be collected from a crime scene, received directly into the unit or from another unit. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Latent Print Units will not interface instruments with the LCMS.

1.1043.2.3 Firearms, Bombs and Tool Marks

The Firearms Units assign work on a rotational basis. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Firearms Unit will not interface instruments to the LCMS.



The Lansing Firearms Unit also has an extensive collection of reference weapons. The LCMS shall catalog and track all of these weapons including the ability to search and report on manufacturer, caliber, serial number, current location, and checkout history. The Lansing unit also has a large inventory of ammunition used by all Firearm Units in developing supporting evidence during analysis. The inventory of ammunition may also be managed by the LCMS.

The Lansing Firearms Unit is developing a collection of reference materials for firearms examiners. This information will be maintained in a separate database with hypertext-linked files of pictures, diagrams, and text. It is desired that the LCMS support linking between the LCMS managed analysis and the firearms reference library.

1.1043.2.4 Drug Analysis

The Drug Analysis Units assign work on a rotational basis. The LCMS shall manage multiple storage locations with the capability to configure security to allow only authorized individuals to access information about stored items. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit.

Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review.

The Drug Analysis Units plan to interface instruments with the LCMS in the future. The LCMS shall provide a means of uploading data from drug analysis instruments and automatically associating the uploaded results with the proper sample.

Each Drug Analysis Unit provides a monthly Electronic Data Deliverable (EDD) to the Research Triangle Institute (RTI) that summarizes the drug analysis results under the U.S. Drug Enforcement Administration's (DEA) National Forensic Laboratory Information System (NFLIS) program. The LCMS shall provide a menu selectable reporting option that creates an EDD in the required NFLIS format.

1.1043.2.5 Toxicology / Blood Alcohol

Toxicology receives and processes hundreds of samples daily. Driving Under the Influence (DUI) samples are processed in quality control batches with calculated concentrations reported. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Toxicology Unit may, in the future, interface gas chromatographs devices with the LCMS.

1.1043.2.6 Polygraph

Polygraph information must be protected against release to anyone other than an officer of the court. The LCMS shall provide configurable security to prevent access to Polygraph Unit investigation results by anyone outside the Polygraph Unit. The LCMS shall provide an input screen for Polygraph analysts to enter the text of questions asked during polygraph examinations. The text will be printed on the final report. In the future, the Polygraph Units plan to interface polygraph application software to upload the text of questions to the LCMS.

**1.1043.2.7 Micro Chemistry**

The Micro Chemistry Units assign work on a rotational basis. The Unit analyzes small or trace amounts of substances for identification. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Micro Chemistry Units plans to interface with the LCMS in the future.

1.1043.2.8 Questioned Documents

The only Questioned Document Unit is in the Lansing laboratory. The Questioned Document Unit assigns work on a rotational basis. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet. The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Questioned Document Unit will not interface instruments with the LCMS.

1.1043.2.9 Biology (DNA and Serology)

The Biology Units assign evidence on a rotational basis. The three DNA equipped laboratories accept derived samples (samples extracted from physical objects) from the other FSD laboratories as well as from evidence delivered. The DNA analysis process takes place on a separate Local Area Network (LAN) of instruments that also report results to the FBI CODIS. The LCMS shall provide for organization and indication of the storage location for all evidences. Analysis of each item is documented on a worksheet. Received evidence may be re-routed to the other units for analysis before processing through this unit. The LCMS shall provide a mechanism for analysts to refer an item to another unit and document the transfer of custody as well as coordinating the return of the item to original unit. The LCMS shall allow automatic notifications between the sending and receiving unit when the transfer is done or when the analysis is complete. Processing and analysis of each item is documented on a worksheet.

The LCMS shall generate and print an analysis worksheet for each test for each item logged into the System. The LCMS shall provide the necessary mechanism for the proper disposition of a completed item of evidence – storage and return to submitter or return to original unit for further analysis. The LCMS shall allow a mechanism for the technical and admin review. The Biology Units may interface instruments with the LCMS in the future.

1.1043.3 Laboratory Processes

This section describes the various laboratory processes and key areas for full support of the FSD by the LCMS. The contractor shall address proposed solutions to satisfy the inclusion of the following activities:

1.1043.3.1 Case Jacket

The LCMS shall maintain all information for all received evidence as an electronic Case Jacket or Case Folder. The LCMS shall start the Case Jacket when evidence is first logged into the LCMS. Based upon the submitting agency name and complaint or case identification number, the LCMS shall determine whether to start a new laboratory case jacket or add the newly submitted evidence to an existing case jacket. The LCMS shall permit the person logging the evidence to override a decision to add new evidence to an existing case by choosing to create a new Case Jacket.



The LCMS shall provide a capability to print proper case jacket labels so that all case jackets, for a given case, can be tracked and located.

The LCMS shall allow analysts to upload and link external documents, such as scanned documents, Microsoft Word/Excel document or images, with the case jacket.

1.1043.3.2 Evidence Tracking and Chain of Custody

The LCMS shall maintain a chain of custody for each item received at the laboratory. The LCMS shall store the date, time, location, and responsible person for all transfers of evidence.

If secondary samples are created from an item (DNA extracts, small pieces of cloth, packages containing multiple items, etc.) the LCMS shall assign new, unique identification codes for each item and maintain the relationship between the parent item and the child items. The ability to create child items from child items shall permit multiple levels of relationship.

The LCMS shall produce complete custody reports for any single item along with all secondary samples derived from that sample or for all evidence items associated with a case.

The LCMS shall recognize and accommodate storing multiple items of evidence within a container (e.g., box). The LCMS shall generate a barcode label for the evidence container and for each piece of evidence, and shall apply all actions performed on the container to all items stored in the container such as custody transfer or destruction.

The LCMS shall accommodate custody transfers via lock box. The LCMS shall store the lockbox identifier in lieu of the receiving person when items are placed inside and as the relinquishing person when items are removed. The LCMS shall reject a user attempt to use a lock box that currently is being used to store items from another case.

If there is a breach in the custody of an item, the LCMS shall inform the user of the error. The LCMS shall permit a user to accept custody after warning of a breach in the custody chain.

1.1043.3.3 Crime Scene Analysis

Often FSD analysts directly analyze crime scenes and collect evidence. When crime scene analysis is performed, the Crime Scene Report will be the first "sample" and analysis entered into the LCMS. The LCMS shall accept data input in the form of multiple text pages.

1.1043.3.4 Sample Receiving and Login

Evidence reaches the laboratory via delivery by the submitting by mail. All evidence must have an accompanying Request For Laboratory Analysis (Form FSD-7) describing the evidence, identifying the submitting organization and complaint number or case number, and identifying required tests. The LCMS shall accept and store all information found on the Form FSD-7. LCMS screens shall be designed to allow entry of all FSD-7 information by requiring less than 120 seconds.

The LCMS shall assign each evidence submission a unique identifying number. The LCMS shall be capable of maintaining multiple distinct sequential numbering systems for the various laboratories. Each laboratory shall be able to independently design the pattern for their identification numbers. The identifying numbers should be unique to the each lab. The LCMS shall have auto-incrementing sample numbering systems for each laboratory. The LCMS shall also allow storage of postal (such as USPS, UPS or FedEx) tracking numbers.

The LCMS shall allow a remote submission entry, either using barcode mechanism or using remote web data entry or both, to the FSD submitting agencies by which the agency can enter information about the evidence and the agency itself. This will enable the agencies to enter a request for examination. When the evidence is delivered to the laboratory, the LCMS shall allow a direct import or integration of such information to avoid any duplicate data entry.

**1.1043.3.4.1 Submitting Organization Identification**

The current case tracking system assigns each potential submitting organization an organization code. Since personnel who routinely receive evidence are accustomed to using these identifiers, the LCMS shall provide the option for selecting submitting organizations by either the organizational name or by manually entering the organizational code. Additionally, the LCMS shall store and be able to search on the complaint number or case number of the submitting organization. (Note: This may not be a unique number because evidence is examined for different organizations.)

1.1043.3.4.2 MSP Evidence Information

The login process shall only be performed once for a given set of samples, no matter how many FSD units may be involved with analytical testing. All evidence will be bar coded and units will be able to fully identify evidence and the associated case by scanning the evidence.

1.1043.3.4.3 Non-MSP Evidence Information

If the submitting organization does not use the LCMS evidence management capability, the LCMS shall provide two methods of entering the necessary information.

If the LCMS barcode capability is used by the submitting agencies to log the evidence, the laboratory system shall be able to scan the originally assigned barcode to fully import the bar coded data into the LCMS.

If the internet capability is used by the submitting agencies to log the evidence, the laboratory system shall be able to fully import the agency data into the LCMS.

Therefore, information from the submitting agencies shall be available automatically to the laboratory analysts.

If no electronic information is available, the evidence receiver shall be able to quickly enter all information from the accompanying submission form (FSD-7) into the LCMS.

1.1043.3.4.4 Login Comments

The LCMS shall allow login personnel to flag evidence or a case if any information on the submission form is unclear or causes conflict with normal processing procedures, indicating the need for review by the Unit Supervisor or Laboratory Manager. The LCMS shall have a place for "comments" that are communicated through the System to the analysts and management, which can be used to describe any unusual circumstances or special requests observed during field collection or login. The LCMS shall allow for multiple levels of comments. The Unit Supervisor or Laboratory Manager shall be capable of adding comments that are available to all laboratory personnel involved in the analytical process or the reporting of results.

1.1043.3.4.5 Electronic Storage of Files

The LCMS shall upload and store electronic files. The user shall be able to associate any uploaded file with the laboratory case, a specific evidence submission, a specific evidence item, or a specific examination of an evidence item. The LCMS shall not prevent upload based upon file format. The LCMS shall be capable of storing and displaying the contents of the industry standard file formats such as Microsoft Word, Microsoft Excel, PDF, GIF, JPEG, JPG, TIFF, TIF, BMP, MPEG, AVI.

1.1043.3.5 Workload Management

The System shall provide automated support for managing the laboratory workload.

1.1043.3.5.1 Rotational Work Assignment

Where batch analysis is not performed, analysts are assigned work on a rotational basis. The LCMS shall assign the analyst at the top of the rotation list before moving the next analyst in the rotation list. The LCMS shall allow analysts not available for an extended period to be removed from the rotation list prior to the period and added at the top prior to the date of availability.

The LCMS shall display information concerning the samples in the system for managers to consider when assigning work. The LCMS shall query the database by test code, group of test codes, or by unit. It shall be possible for the supervisor to prioritize the workload by parameters such as holding time, special turnaround



requests, or by date received. These work lists shall be configurable depending on the laboratory's requirements. From the lists, the supervisor shall be able to select which cases will be assigned.

The LCMS shall permit supervisors or other authorized users to remove a user from one or more rotational lists or to override the automatic rotational assignment and assign a case to any LCMS user.

The LCMS shall permit assigning of lockers/storage automatically.

1.1043.3.5.2 Batch Work Assignment

Analysis by the Toxicology, Drug Analysis, and DNA units is performed in batches with appropriate quality controls (QC). A single analyst normally handles a group of cases in other units. The LCMS shall permit handling of batches and assigning evidence to a unit (rather than an individual).

1.1043.3.5.3 Sample Hold Times and Turnaround Times

Many analyses performed by the laboratory specify a maximum hold time for the analysis to be conducted. The LCMS shall assign holding times by predefined limits assigned to test codes, as well as accommodate rush work or other than standard turnaround requests. The on-screen display shall include a user-controlled filter to define the scope of the listed samples.

The LCMS shall generate lists of all pending work according to the remaining holding time or turnaround requested, and allow the analyst and laboratory management to differentiate between the two. The LCMS shall also differentiate between allowable holding times for different types of samples. The LCMS shall alert specific analysts and/or group leaders that prompt action is required according to predefined criteria.

The LCMS shall have a mechanism for alerting analysts and management when samples are about to reach the end of allowable holding times.

The LCMS shall provide an easy way to determine if all requested analyses have been completed so that the sample can be disposed. The displayed status report shall also include the level of review as outlined in Section 1.1044.3.11.

1.1043.3.5.4 Worksheets

Worksheets are used to track each analysis of each item of evidence. The FSD has developed specialized worksheets that are unique for each analysis method. The LCMS shall produce and print worksheet based upon the existing FSD customized worksheets for each analysis with all relevant case and sample information printed at the top.

1.1043.3.5.5 Status Tracking

The LCMS shall assign status values when samples are logged, received, processed, and disposed, such as the following:

- Logged
- Received
- Stored
- Prepared
- Analyzed
- Technical Review
- Administrative Review
- Reported
- Evidence Storage Location
- Court
- External Lab
- Destroyed or Returned
- Returned

**1.1043.3.6 Subcontracted Analysis**

Evidence may be sent to non-MSP experts. The LCMS shall generate a COC (chain of custody) document with information from the sample login process such as the case or complaint number, evidence identification number, and the tests to be performed for subcontracted analysis. Reports generated by subcontractors will be sent in parallel to the submitting organization and the receiving laboratory. In the laboratory, work management information will be entered into the LCMS. When the item is returned to the laboratory, the LCMS shall record the event and resume maintaining the internal COC.

1.1043.3.7 Standard Operating Procedures

The LCMS shall allow users to access on-line copies of Standard Operating Procedures (SOP) from data entry screens and batch preparation screens without closing the LCMS screen. The individual SOP files will be stored in accordance with the LCMS contractor guidelines in an acceptable format.

1.1043.3.8 Batch Preparation Sheets

The LCMS shall generate worksheets to manage batch-oriented sample processing. It is desired that the LCMS allow selection of samples by the analyst to be printed on the worksheet.

1.1043.3.9 Analysis and Data Entry

The LCMS shall accept and store results from laboratory analysis. The type of results will depend upon the type of analysis performed. Most analyses will produce narrative results which may be one or more paragraphs of text.

1.1043.3.9.1 Modes of Data Entry

The LCMS may accept input of analytical results by either of two general means: keyboard entry from personal computers or direct data input of instrument generated American Standard Code for Information Interchange (ASCII) files.

1.1043.3.9.2 Manual Entry Error Checking

The LCMS shall provide a way to evaluate manually entered numeric data for obvious errors such as negative results or excessively high concentrations.

Note: The results from subcontracted analyses may be provided in an electronic format such as an ASCII file or in Excel spreadsheet. The LCMS shall provide a mechanism for direct data transfer from electronic file sources.

In accordance with the MSP FSD QAP (Quality Assurance Plan), the LCMS shall be configured to prevent changes to previously entered data except by the laboratory manager or the LCMS manager.

1.1043.3.10 Graphical Output

The LCMS shall create and provide the ability to view control charts. Data generated from the analyses shall be automatically entered into the appropriate control charts. Likewise, resulting control limits shall be readily accessible to the analysts and data review personnel by appearing on the QC data entry sheets and QC reports.

Control charts are used for two related but separate functions: (1) establish in-house QC acceptance criteria (upper and lower limits) by calculating the 2X (Warning limit) and 3X (Control Limit) sigma of the standard deviation values, and (2) real time trend assessment, that can indicate a progressive deterioration of method performance.

The LCMS shall periodically calculate and update the acceptance limits on a user-defined schedule, and also visually plot QC data points as they are entered for trend tracking evaluation.

1.1043.3.11 Review and Validation

The data validation process at the FSD varies with department, but in all cases involves the Unit Supervisor and Laboratory Manager review. The reviewer shall be able to access data through the LCMS to validate the results for a given analysis. Certain methods require other information such as surrogate recoveries or internal standard results.



The LCMS shall allow for a review process that incorporates password-based validation as electronic signature. Only designated personnel shall be authorized to conduct data review for the different levels. The LCMS shall not only be able to recognize authorized passwords, but shall maintain a trace-ability record of the review process. For each level of review, the LCMS shall record the date, time, and identity of the reviewer. The LCMS shall allow automatic notifications between the reviewer and the analyst when the review is complete. For example, technical and admin reviewer shall get an email or a similar notification when a there is pending review waiting. Similarly, the analyst shall get notification when the review is complete.

1.1043.3.11.1 Level I – Technical

The conclusion of each analysis or batch of samples will be reviewed for technical thoroughness and accuracy. The LCMS shall provide a method for electronic signature validation of the technical review.

There shall be a place for a narrative to comment on any unusual circumstances or other pertinent information. The Level I review is documented, dated accepted by the analyst.

1.1043.3.11.2 Level II – Administrative

Each final report is reviewed for administrative correctness. If no mistakes are found, the reviewer shall be able to select the approval option on the screen. The LCMS shall provide a method for electronic signature of the administrative review.

Note that due to time constraints during daily operations, the system shall allow authorized higher-level reviewers to substitute or override a lower level review.

1.1043.3.12 Report Generation

The LCMS shall provide the means of designing multiple reporting formats that meet State requirements and for other Government agency use. These requirements include specific report templates designed to resemble the current report forms. Many of the reporting formats include results for numerous tests on the same sheet.

The LCMS shall track information about reporting requirements for each evidence submission.

1.1043.3.12.1 Report Formats

Reporting requirements shall be contained in the database and the LCMS shall be versatile with respect to the design of report formats. The user shall have the ability to query the database and input information such as project name, site, sample identifiers, sample results, detection limits, and QC data, in a totally configurable format. It shall be possible to report results from multiple test codes on the same form. The LCMS shall include comments pertaining to collection, login, sample preparation, and analysis to describe any unusual circumstances or other pertinent information. Authorized personnel shall have the ability, through password access, to edit any and all information included on the final report documents. Release of final reports is to be contingent upon review in accordance with the QAP and approval by authorized laboratory personnel. The LCMS shall allow the printing of preliminary reports; however, any preliminary / unapproved report shall automatically indicate to the reader of a preliminary report that the report is not final and unapproved.

A variety of reports are required for FSD programs, some of which may contain graphical depictions of analytical data, such as bar or line graphs. The FSD will use color codes or symbols to present various sampling events, analytical parameters, or sample locations on the same graph.

The LCMS shall facilitate the dissemination of data to the appropriate individuals. Often the data must be aggregated or combined with information from other parts of the enterprise in a format that satisfies the work-related needs of each individual. For the LCMS to fully support such opportunities, the LCMS shall have a method for easily creating data extraction processes and for automatically scheduling or otherwise arranging for these processes to generate specialized data sets when needed.

1.1043.3.12.2 Analysis Reports

Most of the analyses performed by the FSD require considerable textual input. Each report will contain standard information about the item of evidence and the case in the report header. Analysis reports are developed in a word processor. The LCMS shall pre-format all information about the evidence analyses being



reported in Microsoft Word. The desired format will be provided during the contractor's requirements discovery process.

Completed reports will be stored on the LCMS server. It is not necessary that the report be contained within the LCMS database; however, the LCMS must create and store a pointer or link (hypertext is acceptable) to the computer file containing the final report. The LCMS shall associate the stored link with and accessible through the case information.

1.1043.3.12.3 Management Reports

Management reports may be generated directly by LCMS software including a report design tool. The process for creating management reports shall provide the option of saving the report to disk storage. The LCMS is not required to create a stored link to a management report.

The LCMS shall provide a minimum of ten reports that summarize laboratory activity including totals for each test type, work groups, or department according to user-defined criteria. In addition, it shall be possible to query the historical database on user-supplied criteria, such as by site or program specific basis.

The FSD has considerable historical data that will need to be entered into the LCMS in order to track changes over time. Some of this data is in the current LCMS database and could be electronically transferred, while other information may have to be manually entered (or scanned) once the implementation process is sufficiently advanced. The contractor must address a mechanism for entry of historical data into the LCMS database and shall include a cost to migrate electronic data from the existing LCMS to the delivered LCMS.

1.1043.3.12.4 Ad Hoc Reporting

The LCMS shall permit users to create queries (*ad hoc* query) based on any searchable fields in the database to generate special reports. The LCMS shall provide a method of saving *ad hoc* queries for later automatic execution. The LCMS shall allow stored *ad hoc* queries to be shared among authorized users.

1.1043.3.12.5 Electronic Data Deliverables (EDD)

The LCMS shall create EDDs for certain programs. If the LCMS does not have the capability of generating EDDs internally, it shall export data to an external resource for EDD preparation. Data is organized in ASCII field delimited text files in a client-defined format and delivered on diskette or sent over the Internet. Any data that is available on hardcopy reports may be required in an EDD. The FSD also may manually enter data for EDD submittal that is not tracked by the delivered LCMS. The contractor shall address these matters by use of a mechanism for EDD generation and delivery.

1.1043.3.12.6 Faxing and E-mail

The LCMS shall be configured such that reports can be faxed, sent via E-mail, or accessed directly via secured web. In accordance with the security concerns for report authorization, all electronic data transmittals shall require password authorization to ensure that reports have undergone proper review.

1.1043.3.13 Data Export and Import

The LCMS shall provide for the automatic transfer of data files to an external source in a format that can be captured and manipulated. The format of the data file must be easily definable and, once created, shall be available for later use within the LCMS. The LCMS shall generate output data files automatically when an analysis of a sample is completed or manually in the manner similar to creating reports.

1.1043.3.14 Audit Trail

In conformance with Good Automated Laboratory Practices (GALP), ASCLD/LAB and ISO 17025, the LCMS shall maintain an audit trail of all user activities for a configurable period of time. The audit trail shall be capable of showing for a specific item, the dates and times of all changes, and the LCMS username that changed the value and the data as it was before the change.

1.1043.3.15 Electronic Storage of Signatures

The LCMS shall be configured to accept and store a digitized representation of the signature of the person submitting evidence and receiving returned property. The contractor shall identify compatible signature capture hardware to the FSD.

**1.1043.3.16 Electronic Signature**

The LCMS shall support electronic signature in the form of user passwords for each level of review and audits. Electronic signature shall comply with ASCLD/LAB and ISO 17025 guidelines.

1.1043.3.17 Training

The MSP FSD has a comprehensive training program that provides employees with formal instruction and guidance to properly and safely perform laboratory activities. Specific training requirements discussed in the Forensic Science Division QA/QP Plan include:

- MSP and FSD Policies
- Health and Safety
- Chemical Hygiene Plan
- Good Laboratory Practices
- QA/QC Plan
- Analytical Procedures and Instrument Operation
- Instrument Maintenance

The LCMS shall incorporate a feature for maintaining employee training records and advising laboratory staff of scheduled training events, safety meetings, or other related events if completion dates are to elapse or if the required training records are deficient. The LCMS shall keep track of individual proficiency test results and associate this information with specific analysis and tests conducted. It is required that the LCMS alert a supervisor or other member of management before a case is assigned to an individual who is not currently approved to perform an analysis.

1.1043.3.18 Routine Laboratory & Safety Monitoring

In accordance with Good Laboratory Practice (GLP) protocols, the laboratory has established routines for monitoring various parameters related to quality assurance and safety. Each department has its own specific responsibilities, although some overlap in the use of equipment does occur. The LCMS shall manage the established laboratory routines for monitoring parameters related to equipment maintenance, chemical inventory, and safety.

1.1043.3.18.1 Laboratory Equipment Monitoring

Monitoring laboratory equipment is critical for maintaining data quality and is part of the overall QAP. Most monitoring is conducted on a fixed schedule and each measurement has a specified acceptance criterion. These include numerous equipment performance verifications and/or inspections as discussed in the FSD QA/QC Plan. Some of these have already been mentioned in the discussion regarding the various departments. Examples include verification of balances, pH meters, refrigerator and incubator temperatures, water purity checks, etc. The LCMS shall track and report this information, and alert staff and management (via e-mail) of out-of-control situations. This function may be accomplished directly by the System, or by using an external program. Laboratory quality personnel shall be able to add or remove monitored items. The LCMS shall track compliance against different schedules for each item.

1.1043.3.18.2 Safety Equipment

As required by the laboratory, safety equipment and records are inspected on a fixed schedule. The LCMS shall incorporate a feature for maintaining records of these inspections. The LCMS shall advise laboratory staff of scheduled events and alert laboratory management if completion dates lapse. Laboratory safety personnel shall be able to add or remove monitored items. The LCMS shall track compliance against different schedules for each item.

1.1043.3.18.3 Chemical Inventory

The LCMS shall maintain an inventory of chemicals in each laboratory optionally sorted by unit and room. The information shall include name, quantity, container type, supplier, lot number, expiration date, storage area, and verification of receipt of the Material Safety Data Sheets (MSDS). The LCMS shall alert the analyst if they attempt to use a chemical that has expired. The LCMS shall be able to print out a hardcopy of these records



and provide a hypertext link to MSDS information on the chemical manufacturer's web site or a file on the MSP network.

1.1043.3.19 Evidence/Property Disposition

The LCMS shall provide an automated way to determine if all requested analyses have been completed so that the item of evidence can be stored or returned. The LCMS shall control sample disposition in two ways. When an analyst has completed the last required analysis for a sample and the analysis has been approved and posted by the analyst, the LCMS shall indicate which samples may be marked for return or other disposition. This LCMS shall generate a property return/disposal list based on any defined parameter such as hold time, sample completion status, etc.

1.1043.3.20 Subpoenas and Court Time Tracking

The LCMS shall provide ways to enter and edit data about subpoenas including: examiner name, laboratory case number, submitting agency complaint or case number, court name, and date. The LCMS shall provide a button, menu item, or other program control to export the subpoena information as a Microsoft Outlook calendar entry. The LCMS shall include subpoena information in the examiner's task lists.

The LCMS shall provide automatic ways to capture information after the court date including: case type, court type, travel time, court time, mileage, and whether the examiner testified. In addition, the system will provide reminders to the analyst after he/she has attended the court to enter the above information.

The LCMS shall create reports listing:

- All subpoenas organized by laboratory including all subpoena data
- Time and mileage

All information regarding subpoenas and court time tracking shall be linked to a specific electronic case jacket or jackets and should be accessible from a case jacket screen.

1.1043.4 Enterprise Integration

To achieve maximum benefit from the LCMS information from other external MSP systems must be brought into the LCMS database in an automated manner. Similarly LCMS information must be sent to existing MSP systems electronically. Such integration will enable the LCMS to become part of the MSP enterprise. The LCMS shall include a mechanism to exchange data from/to other systems in the future. The format for the data exchange will be provided as required.

1.1044.1 Installation

The contractor shall perform the initial installation of the system, and shall provide a sequence of steps, including a timetable and project plan, for the completion of this effort. This document shall address the various worksheets, LCMS requirements, reporting formats, and other customized documentation required by the laboratory. This document will also address the implementation strategy to be used. The intent of the FSD is to procure a functioning LCMS that is operational within a six month time frame from the date of signing the contract.

1.1044.2 LCMS Training

The contractor shall train FSD and State personnel in the maintenance and operation of the LCMS. The training shall address system administration and normal user actions. A detailed description of the training that is to be provided including a suggested schedule, lesson topics, and estimated time will be developed by the contractor and approved by the MSP FSD.

1.1044.2.1 System Administrator Training

The contractor shall train FSD and State personnel in the maintenance and operation of the LCMS. They shall provide adequate training for State personnel to install, configure, use, and maintain the system, based on the requirements stated in this document. The contractor will certify that the sufficient training has been provided by taking proficiency tests or other similar tests. Training shall include system configuration and security settings, system maintenance, required database maintenance, backup, restore from backup, and an overview of all user functions. At least 16 hours of administrator training will be provided.



1.1044.2.2 User Training

The contractor shall train FSD personnel in the LCMS functions required for their laboratory duties. User training shall, at minimum, include user interface, case receiving and login, evidence management, results entry, review, and reporting. The contractor will certify that sufficient training has been provided by administering proficiency tests or other similar tests to the users. At least 40 hours of user training will be provided.

1.1044.3 LCMS User Manual

The contractor shall deliver a minimum of one hard copy and one electronic copy of a System Administrator Manual or guide and a User Manual which will cover all functions of the LCMS and the specific functions of the LCMS as installed and configured for FSD. The FSD shall have unlimited reproduction rights to the manuals for FSD and LCMS management purposes.

1.1044.4 System Testing and Validation

The contractor shall plan, develop, and test the test plans to validate the delivered LCMS. The contractor shall provide copies of all test plans, data, results, and any testing scripts used in validating the proper operation of LCMS within four months of contract award and before deploying the application. FSD will signoff on the test plans and the results.

1.1045 Deliverables

The contractor shall not begin with the prep work for any deliverable for this project until both parties have agreed to and signed off on written documentation which describes the final deliverable and shown acceptance of its terms. The sign off process will be initiated by the contractor and submitted to the State. The State will have the ability to require any changes to the document and request resubmission of the document if needed. Deliverable prep work shall not begin until FSD, DIT, and the MSP Project Office have signed off on them. Deliverables will not be considered complete until the FSD, DIT, and MSP Project Office have formally accepted them. Deliverables for each of the five phases of this project include:

Ongoing Reports

- Monthly Status Reports
- Change Order Documentation
- Budgetary Updates
- Project Management Documentation as Requested by the State

Milestones	Deliverables	Acceptance Criteria
1. Phase I – Discovery Phase to be complete within 3 months of contract signing	Vision/Scope Statement	Vision/Scope Statement reviewed and approved by Customer.
	Business Requirements Statement & Project Plan	Business Requirements Statement and plan reviewed and approved by Customer.
	Gap Analysis Statement	Gap Analysis Statement has been reviewed and approved by Customer.
	Review/Assessment of Standard Operating Procedures	Proposed SOP changes reviewed and approved by Customer.
	Conceptual Design Plan	Conceptual Design Plan reviewed and approved by Customer.
	Physical Design Plan	Physical Design Plan reviewed and approved by Customer.
	Master Project Plan	Master Project Plan reviewed and approved by Customer.
2. Phase II – Design & Specification to be complete within 6 months of contract signing	Functional Specification/Design	Functional Specification/Design reviewed and approved by Customer.
	Development Plan	Development Plan reviewed and approved by Customer.
	Functional Specification – Remote Logging	Functional Specification – Remote Logging reviewed and approved by Customer.



Milestones	Deliverables	Acceptance Criteria
	Functional Specification – Reporting	Functional Specification – Reporting reviewed and approved by Customer.
	Training Plan	Training Plan reviewed and approved by Customer.
	Test Specifications	Test Specifications reviewed and approved by Customer.
3. Phase III – Development & Implementation to be complete within 6 months of contract signing	User Acceptance Test and PARE Plan	User Acceptance Test and PARE Plan reviewed and approved by Customer.
	Pilot Plan	Pilot Plan reviewed and approved by Customer.
	Data Migration Plan	Data Migration Plan reviewed and approved by Customer.
	User Documentation	User Documentation reviewed and approved by Customer.
	System Administrator Documentation	System Administrator Documentation reviewed and approved by Customer.
	User Training Materials	User Training Materials reviewed and approved by Customer.
	System Administrator Training Materials	System Administrator Training Materials reviewed and approved by Customer.
	Deployment & Operations Guide	Deployment & Operations Guide reviewed and approved by Customer.
4. Phase IV – Production Preparation & Training to be complete within 6 months of contract signing	User and System Administrator Training	Users have a working knowledge of application and are prepared to leverage the application to complete daily tasks.
	User Acceptance and PARE Testing	Test results meet and/or exceed criteria outlined in User Acceptance Test and PARE Plan.
	Pilot Testing	Customer confirms that Pilot System continues to meet and/or exceed criteria outlined in User Acceptance Test and PARE Plans.
	Support Plan	Support Plan reviewed and approved by Customer.
5. Phase V – Enterprise Deployment to be complete within 6 months of contract signing	Product Deployment	Application deployed successfully to all named FSD users.
	Data Migration	Customer confirms that legacy data has been completely and accurately migrated according to Data Migration Plan.
	System Support & Maintenance	Customer confirms that Support Plan implemented per approved Support Plan.
	Backup & Recovery Plan	Backup & Recovery Plan reviewed, tested and approved by Customer.
	Post Project Analysis	Post Project Analysis Document has been reviewed and approved by Customer.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The Contractor staff will be responsible for gap analysis, hardware recommendations, business and technical design, data migration, development, QA, application implementation, and the support, maintenance and



upgrade of the LCMS system. The Contractor will provide staff that meets the following roles and responsibilities.

General Contractor Responsibilities

- Provide normal services Monday through Friday, 8:00 a.m. to 5:00 p.m. EST
- Provide competent staff, as evidenced by resumes, in sufficient number to meet the requirements identified in this ITB.
- Provide competent key staff, as evidenced by resumes, within five (5) business days of notification by FSD
- All personnel provided by the Contractor shall be subject to the rules, regulations, approval, and policies of MSP
- Replace all employees whose work was found to be unsatisfactory within five (5) business days of notification
- As required, attend and conduct project meetings using appropriate and most effective communication methods
- Provide responses to project-related questions and issues

Project Manager Responsibilities

- Perform, coordinate, monitor and communicate project management activities with FSD's Project Manager as detailed in Articles 1.3 and 1.4, and with the MSP Project Office Project Liaison as needed.

Technical Responsibilities

- Design, develop, test, and implement LCMS deliverables as described in Article 1
- Implement LCMS production software with assistance and direction from FSD
- Implement LCMS development and test hardware / software and related tools with assistance and direction from FSD
- Develop, test and implement test scripts and procedures to implement the LCMS system
- Develop, test and load data from the existing system
- Develop and test documentation for operating, supporting and installing LCMS

Maintenance Responsibilities

- Support the application in any technical capacity necessary to ensure proper functionality
- Provide help desk support for handling inquiries and problems
- Implement timely resolutions to problems, traveling to FSD facilities as needed

Training Responsibilities

Develop and conduct application training for FSD user and technical personnel refer to section 1.1044.2,3,4

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The State of Michigan will provide staff that meets the following roles and responsibilities.

General FSD Responsibilities

- Provide office space and computer hardware/software as deemed necessary to perform tasks identified in this contract
- Provide telephones, duplicating services and facsimile equipment at FSD facilities for needs that are related to this agreement
- Business Project Leader and additional business and technical area staff will be available as needed
- Provide timely responses to project-related questions, issues and approvals

Project Manager Responsibilities

- Review, approve and integrate Contractor's schedule into overall project schedule
- Coordinate and conduct project status meetings.
- Perform, coordinate, monitor and communicate project management activities related to the overall project

Technical Responsibilities

- Coordinate and install the hardware and the network for development, test, and production environments, with guidance from the Contractor



- Provide and interpret IT standards and review deliverables for compliance
- Work with the Contractor in extraction, formatting and loading of data from existing FSD systems into LCMS
- Work with the Contractor in testing LCMS
- Archive and dismantle existing FSD systems that are replaced
- Provide the Contractor connectivity and necessary security access to LCMS Contractor facilities, subject to proper approvals
- Procure any infrastructure hardware and software for the development, test and production

Maintenance Responsibilities

- Provide a technical production support team available for transition activities
- Provide a first level help to its users

Training Responsibilities

- Setup and coordinate training classes at FSD facilities
- Develop and conduct training to external business partners if necessary

1.203 RESERVED

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

The Contractor will carry out this project under the overall direction and control of the FSD/Project Manager. The FSD/Project Manager will review progress reports.

- Although there will be continuous liaison with the Contractor, the FSD/Project Manager shall have contact at a minimum of weekly with the Contractor for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. The objective of this step is to ensure that the FSD/Project Manager is promptly informed of progress and the major issues that confront the Contractor throughout the contract.
- The Contractor will not be limited to the tasks identified in this document or work plan, and may supplement them with an alternate list of tasks or sub-tasks that will still permit the proper development of the project. Any additions or modifications of the tasks by the Contractor must be so noted, along with reasons the changes were necessary. Changes and modifications are subject to written approval by the FSD Project Manager.
- Within ten (10) working days of the award of the Contract, the Contractor will submit to the FSD Project Manager for final approval a work plan. This final implementation plan must be in agreement with Article 1.104 and accepted by the State for Contract, and must include the following:
 - 1) The Contractor's project organizational structure.
 - 2) The Contractor's staffing table with names and title of key personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - 3) The project breakdown showing phases, activities and tasks, deliverables, and resources required and allocated to each.
 - 4) The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.
- The Contractor must appoint a Project Director that is available for consultation with FSD upon request. The Contractor Project Director must be knowledgeable of both the LCMS technical and business issues and be an excellent communicator. The Project Director must respond to all requests submitted by the FSD Project Manager within seven (7) days



Conferences, meetings, or conference calls may be held by the Contract Administrator or the FSD Project Manager to review progress and re-chart direction. These engagements will be attended by FSD, the MSP Project Office, and the Contractor Project Director. Key Contractor team members may also be requested to attend. The Contractor will receive appropriate advanced notice from FSD prior to each engagement.

1.302 REPORTS

- The Contractor must submit written monthly summaries or progress reports that outline work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, if known; problems, real or anticipated, which should be brought to the attention of the FSD/Project Manager and notification of any significant deviation from the previously agreed upon work plans. All areas of decision making that pertain to this contract must be reviewed in detail with the FSD/Project Manager prior to any final decision. Each monthly progress report will contain the following:
 - 1) Project schedule status. Identify if the project is on schedule or if there is any deviation from the previously agreed upon schedule. If the project has deviated from the previously agreed upon schedule, identify the reason for deviation and areas effected by the deviation. Identify in detail the steps that will be taken to resolve the deviation. Also specify any schedule adjustments that have resulted from the deviation.
 - 2) Activities of the past month. Summarize the actions taken and progress made on the project during the past month.
 - 3) Activities of the following month. Summarize the actions planned for the following month in order to meet the project delivery and performance schedule requirements.
 - 4) Deliverables. Identify deliverables delivered to FSD in the past month and deliverables planned for delivery to FSD in the following month.
 - 5) Issues. Identify problems, difficulties, either anticipated or encountered, and suggested solutions.
 - 6) Resolution of prior issues. Identify resolutions to issues identified in previous progress reports.
 - 7) Percentage completed. Indicate the percentage completed for each task defined in the work plan during the past month, the total percentage completed for each task, total percentage completed for the development phase, and the total percentage completed for the project phase.
- The Contractor will maintain progress and resource schedules for all tasks under this contract. This documentation will include, as appropriate, progress Gantt charts, resource schedule reports, and earned value charts showing budgeted work completed and budgeted work scheduled. The Contractor is responsible for tracking hours expended on each task.
- A detailed report of hours must be received by the FSD Project Manager by the 15th of each month. This report shall describe the work performed and time spent during the period, current thru the end of the previous month, for each task identified in the Work Statement.
- All documentation prepared by the Contractor must be submitted to FSD as both a printed hard copy and in Microsoft Word electronic format. Alternative electronic formats must be mutually agreed upon by FSD and the Contractor.
- The Contractor's name, logo, or other company identifier may not appear on documentation delivered to the State without written authorization from the Contract Administrator. An exception to this will be transmittal of cover letters showing delivery of said documents.
- All documentation submitted to FSD by the Contractor must contain a title page with the following information:

Contract Number
Contract Expiration Date
Task Name (if applicable)



Name of Contractor
Contractor Project Director
Date of Deliverable or Report
Time Period of Deliverable or Report

All reports and deliverables to be furnished by the Contractor will be delivered to the FSD Project Manager and are subject to approval by the FSD Project Manager. The Contractor will inspect all reports and deliverables for accuracy and adequacy prior to delivery.

1.4 Project Management

1.401 ISSUE MANAGEMENT

The Contractor will be responsible for adhering to MSP's Issue Management processes for issues related to the Contractor's solution and staff. The Contractor responsibilities may include but not limited to the following:

- a. Identify, document and communicate project issues to the FSD Project Manager.
- b. Analyze the impact of project issues.
- c. Provide resolution of project issues.

1.402 RISK MANAGEMENT

The Contractor will be responsible for adhering to MSP's Risk Management processes for issues related to the Contractor's solution and staff. The Contractor responsibilities may include but not limited to the following:

- a. Identify, document and communicate project risks to the FSD Project Manager.
- b. Analyze the impact and develop action and contingency plans of project risks.
- c. Monitor and control project risks, including documentation and communication.

1.403 CHANGE MANAGEMENT

The Contractor will be responsible for adhering to MSP's Change Request processes for changes related to the Contractor's solution. The Contractor responsibilities may include but not limited to the following:

- a. Identify, document and communicate proposed changes, using MSP's Change Request Form, to the MSP Project Manager.
- b. Within five (5) days after notification of change request, analyze and develop recommended and alternative solutions for implementing the change.
- c. Within three (3) days after notification of MSP approval, estimate the effort and costs, including the impact to schedule, deliverables and resources, of the MSP approved solution.

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

1.5 Acceptance

1.501 CRITERIA

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

Document Deliverables

Documents include, but not limited to, plans, design documents, project schedules, user guides, and procedure manuals.

1. Documents are dated and in electronic format, compatible with State of Michigan software in accordance with Article 1.302.



2. Requirements Trace-ability Matrix is reviewed and updated throughout the development process to assure requirements are delivered in final product.
3. Beta documents are not accepted as final deliverable.
4. The documents will be reviewed and accepted in accordance with the requirements of this contract and the accepted Contractor's proposal.
5. FSD will review business and project documents. Approvals will be written and signed by FSD Project Manager with assistance from the FSD business staff. Unacceptable issues will be documented and submitted to the Contractor. After issues are resolved or waived, the Contractor will resubmit documents for approval within 7 days of receipt.
6. FSD Project Manager and DIT (Michigan Dept. of Information Technology) will review technical documents. Approvals will be written and signed by FSD Project Manager with assistance from DIT. Unacceptable issues will be documented and submitted to the Contractor. After issues are resolved or waived, the Contractor will resubmit documents for approval within 7 days of receipt.

Software Deliverables

1. Software includes, but not limited to, LCMS application, software product, development tools, support tools, data migration software, integration software and installation software.
2. Beta software is not accepted as final deliverable.
3. The software will be reviewed and accepted in accordance with the requirements of this contract and the accepted Contractor's proposal.
4. FSD and DIT will review software for acceptance of functionality, usability, installation, performance, security, standards compliance, backup/recovery and operation. Approvals will be written and signed by FSD Project Manager with assistance from FSD and DIT. Unacceptable issues will be documented and submitted to the Contractor. After issues are resolved or waived, the Contractor will resubmit software for approval within 7 days of receipt.

Service Deliverables

1. Services include, but not limited to, training, data migration, help desk and support.
2. The services will be accepted in accordance with the requirements of this contract and the accepted Contractor's proposal.
3. FSD will review a 'Request for Approval of Services' within 30 days of completion or implementation. Approvals will be written and signed by FSD Project Manager with assistance from DIT. Unacceptable issues will be documented and submitted to the Contractor. After issues are resolved or waived, the Contractor will resubmit a 'Request for Approval of Services' for approval within 15 days of receipt.
4. FSD will review migrated and configured data with 30 days of completion. Approvals will be written and signed by FSD Project Manager. Unacceptable issues will be documented and submitted to the Contractor. After issues are resolved or waived, the Contractor will resubmit a request for approval within 15 days of receipt.
5. FSD staff are properly trained and supplied with the proper tools and documentation to support, upgrade, monitor, operate and configure the application in accordance with the requirements of this contract and the accepted Contractor's proposal.
The Contractor has the tools and connectivity installed, in compliance with DIT standards, to properly support and monitor the application.

1.502 FINAL ACCEPTANCE

The following criteria will be used by the State to determine Final Acceptance of each Phase provided under this SOW.

1. All documents, software and services of the Phase are delivered and accepted by FSD and DIT in accordance with the requirements of this contract and the accepted Contractor's proposal.
2. For ninety (90) days after installation, the software and any related infrastructure meet or exceed DIT's performance and reliability requirements in accordance with the requirements of this contract and the accepted Contractor's proposal. During the 90 day warranty period, the software must meet or exceed the performance and reliability requirements for a period of thirty (30) consecutive days. Approvals will be written and signed by FSD Project Manager with assistance from MSP and DIT. Unacceptable issues will be documented and submitted to the Contractor.



3. All issues discovered during the 90 day warranty period are resolved and accepted or waived by FSD and DIT. Approvals will be written and signed by FSD Project Manager with assistance from MSP and DIT
4. All bills related to this contract have been submitted and approved for payment.
A product roadmap is available to FSD and DIT including information such as technical requirements, functional enhancements and product availability periods.

1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

State shall pay Contractor an amount not to exceed six hundred fifty five thousand, three hundred twenty five dollars (\$655,325.00) for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. The pricing shall be made in accordance with the following schedule and breakdown:

Server licensing, client licensing to total \$ 415,500.00

One Year of Annual Maintenance and Support \$ 62,325.00 (including all software patches and version upgrades) payable upon successful completion and signoff of Phase V

Milestones	Deliverables	Acceptance Criteria	Price
Phase I – Discovery Phase to be complete within 3 months of contract signing	Vision/Scope Statement	Vision/Scope Statement reviewed and approved by Customer.	20,000
	Business Requirements Statement & Project Plan	Business Requirements Statement and plan reviewed and approved by Customer.	
	Gap Analysis Statement	Gap Analysis Statement has been reviewed and approved by Customer.	
	Review/Assessment of Standard Operating Procedures	Proposed SOP changes reviewed and approved by Customer.	
	Conceptual Design Plan	Conceptual Design Plan reviewed and approved by Customer.	
	Physical Design Plan	Physical Design Plan reviewed and approved by Customer.	
	Master Project Plan	Master Project Plan reviewed and approved by Customer.	
Phase II – Design & Specification to be complete within 6 months of contract signing	Functional Specification/Design	Functional Specification/Design reviewed and approved by Customer.	\$30,000
	Development Plan	Development Plan reviewed and approved by Customer.	
	Functional Specification – Remote Logging	Functional Specification – Remote Logging reviewed and approved by Customer.	
	Functional Specification – Reporting	Functional Specification – Reporting reviewed and approved by Customer.	
	Training Plan	Training Plan reviewed and approved by Customer.	
	Test Specifications	Test Specifications reviewed and approved by Customer.	
Phase III – Development &	User Acceptance Test and PARE Plan	User Acceptance Test and PARE Plan reviewed and approved by Customer.	\$50,000

TERMS AND CONDITIONS

CONTRACT NO. 071B5200312



Implementation to be complete within 6 months of contract signing	Pilot Plan	Pilot Plan reviewed and approved by Customer.	
	Data Migration Plan	Data Migration Plan reviewed and approved by Customer.	
	User Documentation	User Documentation reviewed and approved by Customer.	
	System Administrator Documentation	System Administrator Documentation reviewed and approved by Customer.	
	User Training Materials	User Training Materials reviewed and approved by Customer.	
	System Administrator Training Materials	System Administrator Training Materials reviewed and approved by Customer.	
	Deployment & Operations Guide	Deployment & Operations Guide reviewed and approved by Customer.	
Phase IV – Production Preparation & Training to be complete within 6 months of contract signing	User and System Administrator Training	Users have a working knowledge of application and are prepared to leverage the application to complete daily tasks.	\$40,000
	User Acceptance and PARE Testing	Test results meet and/or exceed criteria outlined in User Acceptance Test and PARE Plan.	
	Pilot Testing	Customer confirms that Pilot System continues to meet and/or exceed criteria outlined in User Acceptance Test and PARE Plans.	
	Support Plan	Support Plan reviewed and approved by Customer.	
Phase V – Enterprise Deployment to be complete within 6 months of contract signing	Product Deployment	Application deployed successfully to all named FSD users.	\$37,500
	Data Migration	Customer confirms that legacy data has been completely and accurately migrated according to Data Migration Plan.	
	System Support & Maintenance	Customer confirms that Support Plan implemented per approved Support Plan.	
	Backup & Recovery Plan	Backup & Recovery Plan reviewed, tested and approved by Customer.	
	Post Project Analysis	Post Project Analysis Document has been reviewed and approved by Customer.	

Contract awarded from this solicitation will be a fixed price per project phase basis and payments to the Contractor will be made upon the completion and acceptance of all deliverables within a phase, not to exceed contractual costs of the deliverable. FSD will review each deliverable for acceptance within 30 days of receipt of original or revised deliverable. The Contractor will not be paid for any costs attributable to corrections of any errors or omissions that have been determined by the FSD/Project Manger to be occasioned by the Contractor.

The basis of payment for software licenses and maintenance to the Contractor will be unit priced.



FSD will accept for payment only invoices that are error free as of the invoice date. Any invoicing errors or omissions that are the fault of the Contractor will result in FSD rejecting such invoices, requiring that the Contractor correct the invoice problems and then create a new invoice, with a new invoice date reflecting that the invoice is being reissued after the corrections have taken place. Under no circumstances will FSD approve late payment charges when invoices are paid late due to the Contractor's invoicing errors and omissions. Contractors demonstrating a continuing problem with invoicing errors and omissions may be considered in default of contract; resulting in termination of the Contract.

In the event it is necessary for contractual staff to travel for this project, the FSD Project Manager must obtain prior approval. Additionally, travel charges will only be reimbursed at current state-authorized rates as outlined by DMB guidelines (<http://www.michigan.gov/dmb/1,1607,7-150-9141---,00.html>) and must be accompanied by actual receipts. Travel time will not be reimbursed.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW (Reserved)



Quotation

TCSC - The Computer Solution Company
 1525 Huguenot Road
 Midlothian, VA 23113
 804.794.3491 Fax: 804.794.6194

Qte# 0427-0502

Date Issued: 04/27/05

To: Michigan State Police
Attn: Tom Dirlam
email: DirlamT@michigan.gov

Quote Date	Requisitioner	Ship VIA	Date Needed	Terms
4/27/2005	David Romig II	N/A	N/A	Net 30

QTY	Unit	Description	Unit Price	Total		
1	FA-CE_Phase1	TCSC's FA-CE: Discovery Phase Professional Services	\$20,000.00	\$20,000.00		
1	FA-CE_Phase2	TCSC's FA-CE: Design & Specification Professional Services	\$30,000.00	\$30,000.00		
1	FA-CE_Phase3	TCSC's FA-CE: Development & Implementation Professional Services	\$50,000.00	\$50,000.00		
1	FA-CE_Phase4	TCSC's FA-CE: Production Preparation & Training Professional Services	\$40,000.00	\$40,000.00		
1	FA-CE_Phase5	TCSC's FA-CE: Enterprise Deployment Professional Services	\$37,500.00	\$37,500.00		
<table border="0"> <tr> <td>Standard Shipment</td> <td>Blind Drop Ship</td> </tr> </table>			Standard Shipment	Blind Drop Ship	SUBTOTAL	\$177,500.00
Standard Shipment	Blind Drop Ship					
COMMENTS:			SALES TAX			
			TOTAL	\$177,500.00		

- To authorize this quote as an order please sign below
- Send all correspondence to:
 TCSC, Inc.
 1525 Huguenot Rd., Midlothian, VA 23113
 Fax: 804.794.6194

**Article 2 – General Terms and Conditions****2.010 Contract Structure and Administration****2.011 Definitions**

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates (e) “Audit Period” has the meaning given in **Section 2.111**.
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201** as Key Personnel.
- (k) “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.
- (l) “Services” means any function performed for the benefit of the State.
- (m) “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) “Subcontractor” means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
- (o) “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

2.012 Attachments and Exhibits

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

2.013 Statements of Work

- (a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.
- (b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
 - a description of the Services to be performed by Contractor under the Statement of Work;
 - a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;



- a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
 - all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
 - a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
 - a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
 - any other information or provisions the parties agree to include.
- (c) Reserved.
- (d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Office of Acquisition Services ("OAS") and Department of Information Technology ("DIT") (collectively, including all other relevant State of Michigan departments and agencies, the "State"). OAS is the sole point of contact in the State with regard to all contractual matters relating to the Contract. **OAS is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within the Office of Acquisition Services for this Contract is:

Steve Motz
Office of Acquisition Services
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
MotzS@michigan.gov
(517) 241-3215

2.015 Contract Compliance Inspector

Upon receipt at OAS of the properly executed Contract, it is anticipated that the Director of DMB Acquisition Services, in consultation with Michigan State Police, will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Acquisition Services.** The Contract Compliance Inspector for this Contract is:

Jim Flowers
Department of Information Technology
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
FlowersJ@Michigan.gov
(517) 373-0984

2.016 Project Manager

The following individual will oversee the project:
Avi Verma
Michigan State Police – Forensic Science Division
7320 North Canal
Lansing, MI 48913
Vermaavi@michigan.gov
Phone: - (517) 636-4532
Fax: - (517) 322-6124



2.020 Contract Objectives/Scope/Background

2.021 Background

The Michigan Department of State Police (MSP), Forensic Science Division (FSD), and Michigan Department of Information Technology (DIT) are in need of Support Services from the contractor to provide and support the application on State of Michigan devices and servers that will be put to use in seven laboratories providing analysis support services to all Michigan municipalities. The vendor will provide software installation and support services as well as consultation on what necessary hardware is needed in association with FSD and DIT.

The FSD forensic analytical facilities consist of the Lansing Laboratory and six other laboratories located at Grand Rapids, Sterling Heights, Northville, Grayling, Bridgeport and Marquette, and ten additional locations which provide polygraph testing services. The FSD facilities and staff are equipped and trained to fulfill the forensic analysis needs of federal, county and municipal juris agencies throughout the State. The Lansing Laboratory provides some unique analytical services among the FSD laboratories.

The primary mission work performed by the FSD laboratories supports criminal investigation efforts of the MSP, federal and other State, County, and Municipal police organizations. Evidence delivered by organizations is held by the FSD, analyzed, and reported. Evidence is received from county sheriff departments, municipal police, fire departments, and MSP investigators. Usually evidence is analyzed in the receiving laboratory but special requirements are supported in the Lansing laboratory and, occasionally, by Michigan State University botanists and other scientists.

The LCMS shall maintain records for the multiple programs within the laboratory departments, as well as include the ability to expand as needs arise in the future.

The LCMS shall become a central repository for all laboratory measurements that are collected from all the data sources identified in this document. The information shall be in standardized formats and shall be accessible FSD wide.

The FSD laboratories are organized as units focused on specific types of evidence. Senior analysts, called Program Coordinators, lead the quality improvement efforts of each unit.

2.022 Purpose

The purpose of this Contract is to obtain Support Services to implement a Lab Case and Management Information System. The system will be utilized on a agency-specific, state-wide basis. It will be an exclusive contract.

2.023 Objectives and Scope

Refer to sections 1.101 and 1.102 of this document for objectives and scope.

2.024 Interpretation

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

2.025 Form, Function and Utility

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



2.030 Legal Effect and Term

2.031 Legal Effect

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

2.032 Contract Term

This Contract is for a period of 3 years commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. The Contract may be renewed for up to 2 additional 1 year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel

2.041 Contractor Personnel

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

(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated.

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

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized



Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment.

It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides thirty (30) days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$25,000.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least thirty (30) days prior to such Key Personnel's removal.

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

(c) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.

(d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with removed personnel results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted in **Section 2.076** for a time as agreed to by the parties.

(e) Staffing Levels.

(i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial,



clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.

(ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.

(f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate.

If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

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

2.042 Contractor Identification

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

2.043 Cooperation with Third Parties

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel, and, as reasonably requested by the State, to provide to the State's agents and other contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with such requests for access.

2.044 Subcontracting by Contractor

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

(b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Acquisition Services has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement



Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

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

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.

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

2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

2.050 State Standards

2.051 Existing Technology Standards

The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://www.michigan.gov/dit/0,1607,7-139-30639_30655---,00.html.

2.052 PM Methodology Standards

The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. See the State's PMM website at <http://www.michigan.gov/projectmanagement>.

The Contractor shall use the State's PPM to manage this Contract. If the Contractor requires training on the PMM, those costs shall be the responsibility of the Contractor, unless otherwise stated.

2.053 Adherence to Portal Technology Tools

The State has adopted the following tools for its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications



Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with DIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.060 Deliverables

2.061 Ordering

(a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

(b) DIT will continue to oversee the use of this Contract by End Users. DIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. DIT may also designate, in writing, some services as non-delegated and require DIT review and approval before agency acquisition. DIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

2.062 Software

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

2.63 Hardware (Reserved)

2.064 Equipment to be New and Prohibited Products

(a) Equipment to be New

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

(b) Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Acquisition Services has approved a change order pursuant to **Section 2.106**.

2.070 Performance**2.071 Performance, In General**

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

2.072 Time of Performance

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

(b) Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.

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

2.073 Liquidated Damages (Reserved)**2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within thirty (30) days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

2.075 Time is of the Essence

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

2.076 Service Level Agreements (SLAs) (Reserved)2.080 Delivery and Acceptance of Deliverables



2.081 Delivery Responsibilities

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

- (a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Contractor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.
- (b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.
- (c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within fourteen (14) days of receipt. Any damage must be reported to the Contractor within five (5) days of inspection. If this inspection does not occur and damages not reported within thirty (30) days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

2.082 Delivery of Deliverables

- (a) Where applicable, the Statements of Work/POs contain lists of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable"), a good ("Physical Deliverable") or a Service. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

2.083 Testing

- (a) Prior to delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and in conformance with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.
- (b) If a Deliverable includes installation at a State Location, then Contractor shall (1) perform any applicable testing, (2) correct all material deficiencies discovered during such quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State shall be entitled to observe or otherwise participate in testing.

2.084 Approval of Deliverables, In General

- (a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.



- (b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.
- (c) Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.
- (d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.
- (e) If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure such breach. Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.
- (f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

2.085 Process For Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.



2.086 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) Business Days for Services). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) continuous Business Days for a Physical Deliverable). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable).

If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery of Deliverables

Section 1.1045 contains a list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or a Custom Software Deliverable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

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



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

2.082 Contractor System Testing

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

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

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

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

Within five (5) Business Days following the completion of System Testing pursuant to **Section 2.080**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

2.083 Approval of Deliverables, In General

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

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

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with **Section 2.080**.



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

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

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

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

2.084 Process for Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages).

The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

2.085 Process for Approval of Custom Software Deliverables

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



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

For the Custom Software Deliverables listed in **Section 1.1045**, the State Review Period for conducting UAT will be as indicated in **Section 1.1045**. For any other Custom Software Deliverables not listed in **Section 1.1045**, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by **Section 2.080** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.

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

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section 2.080**.

2.086 Final Acceptance

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

2.090 Financial

2.091 Pricing

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

(b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Attachment A** unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered



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

(d) Labor Rates

All time and material charges will be at the rates specified in **Attachment A**.

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Attachment A**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

(iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

(b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.

(d) Pro-ration

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

(e) Antitrust Assignment

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

(f) Final Payment

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



Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

2.094 Holdback (Reserved)

2.095 Electronic Payment Availability

Electronic transfer of funds is available to State contractors. Contractor is required to register with the State electronically at <http://www.cpexpress.state.mi.us>. Public Act 533 of 2004, requires all payments be transitioned over to EFT by October, 2005.

2.100 Contract Management

2.101 Contract Management Responsibility

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities is likely to delay the timely achievement of any Contract tasks.

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

2.102 Problem and Contract Management Procedures

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

2.103 Reports and Meetings

(a) Reports.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

(i) separately address Contractor's performance in each area of the Services;

(ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;

(iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;

(iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;

(v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;

(vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.

(vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.



(viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.

(ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

(b) Meetings.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

2.104 System Changes

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

2.105 Reserved

2.106 Change Requests

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

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

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

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

(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of



compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

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

(iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Acquisition Services.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

2.110 Records and Inspections

2.111a Records and Inspections

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.



2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

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

2.120 State Responsibilities

2.121 State Performance Obligations

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

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

(c) Return. Contractor shall be responsible for returning 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.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

2.130 Security

2.131 Background Checks

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

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor



presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

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

2.152 Confidentiality

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

2.153 Protection of Confidential Information

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

2.154 Exclusions

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

2.155 No Implied Rights

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

2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

2.157 Security Breach Notification

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

2.158 Survival

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

2.159 Destruction of Confidential Information

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

2.160 Proprietary Rights

2.161a Ownership (Reserved)

2.161b Cross-License (Reserved)

2.161c License (Reserved)

2.162 Source Code Escrow

(a) Definition. "Source Code Escrow Package" shall mean:

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



- (b) Delivery of Source Code into Escrow. Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.
- (c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.
- (d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.
- (e) Escrow Fees. All fees and expenses charged by the Escrow Agent will be paid by the Contractor.
- (f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:
- (i) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
 - (ii) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
 - (iii) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.
- (g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in **Section 2.162(f)**, then:
- (i) The State shall comply with all procedures in the Escrow Contract;
 - (ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
 - (iii) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.
- (h) License. Upon release from the Escrow Agent pursuant to an event described in **Section 2.162(f)**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.
- (i) Derivative Works. Any Derivative Works to the source code released from escrow which are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

2.163 Rights in Data

- (a) The State will be and remain the owner of all data made available by the State to Contractor or its agents, Subcontractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Contractor, nor will any employee of Contractor other than those on a strictly need to know basis have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data.



Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.

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

2.164 Ownership of Materials

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

2.165 Standard Software

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State is listed in **Attachment A**.

2.166 Pre-existing Materials for Custom Software Deliverables

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

2.167 General Skills

Notwithstanding anything to the contrary in this Section, each party, its Subcontractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.

2.170 Warranties And Representations

2.171 Warranties and Representations

The Contractor represents and warrants:

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



- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.
- (m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.



(n) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Software Warranties

(a) Performance Warranty

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

(b) No Surreptitious Code Warranty

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

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

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

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

(c) Calendar Warranty

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

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



(d) Third-party Software Warranty

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

2.173 Equipment Warranty (Reserved)

2.174 Physical Media Warranty

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

2.175a Standard Warranties

(a) Warranty of Merchantability

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

(b) Warranty of fitness for a particular purpose

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

(c) Warranty of title

Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

2.176 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.



All insurance coverages provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See http://www.mi.gov/cis/0,1607,7-154-10555_22535---.00.html.

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

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Acquisition Services, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

1. Commercial General Liability with the following minimum coverage:
 \$2,000,000 General Aggregate Limit other than Products/Completed Operations
 \$2,000,000 Products/Completed Operations Aggregate Limit
 \$1,000,000 Personal & Advertising Injury Limit
 \$1,000,000 Each Occurrence Limit
 \$500,000 Fire Damage Limit (any one fire)

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

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

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

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must



provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

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

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

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

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

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

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

(b) Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall 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. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail



coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.190 Indemnification

2.191 Indemnification

(a) General Indemnification

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

(b) 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.

(c) Employee Indemnification

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall 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.

(d) Patent/Copyright Infringement Indemnification

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

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such 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 such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based



on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

2.192 Continuation of Indemnification Obligations

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

2.193 Indemnification Procedures

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

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such 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 Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall 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 prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to 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 shall have the right to defend the claim in such 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 shall promptly reimburse the State for all such reasonable costs and expenses.

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract or \$200,000 (for low risk contracts – Select a higher amount for moderate to high risk contracts) which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this



Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

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

2.202 Excusable Failure

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

In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

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

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

2.203 Disaster Recovery

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



2.210 Termination/Cancellation by the State

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

2.211 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for 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 shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

(c) In the event 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 shall 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 shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

2.212 Termination for Convenience

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

2.213 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 shall have the right to 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 shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such 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 made available, 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 such manner and for such 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 such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall 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. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/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.

2.214 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 incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

2.215 Approvals Rescinded

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. 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 such written notice.

2.216 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (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) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such 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) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to 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 pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be 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 shall have the right to assume, at its option, any and all 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.

2.217 Reservation of Rights

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

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise 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. In the event of termination or the expiration of this Contract, 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 ninety (90) days. These efforts shall include, but are not limited to, the following:

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

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

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. 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 specified by **Exhibit D**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.219 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

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

2.220 Termination by Contractor

2.221 Termination by Contractor



If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

2.230 Stop Work

2.231 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

2.233 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 Reserved

2.250 Dispute Resolution

2.251 In General

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

2.252 Informal Dispute Resolution



(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Acquisition Services, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.

(iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(iv) Following the completion of this process within sixty (60) calendar days, the Director of Acquisition Services, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.

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

2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.254 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

2.260 Federal and State Contract Requirements

2.261 Nondiscrimination

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

2.262 Unfair Labor Practices



Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.263 Workplace Safety and Discriminatory Harassment

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

2.270 Litigation

2.271 Disclosure of Litigation

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

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:

(A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and

(B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

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

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

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



(3) Contractor shall also notify Acquisition Services within thirty (30) days whenever changes to company affiliations occur.

2.272 Governing Law

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

2.273 Compliance with Laws

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

2.274 Jurisdiction

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

2.280 Environmental Provision

2.281 Environmental Provision

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

(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.



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

2.290 General

2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; Order of Precedence

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 Headings

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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

2.296 Notices



(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such party as addressed below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

State:

State of Michigan
Office of Acquisition Services
Attention: Steve Motz
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

with a copy to:

State of Michigan
Department of information Technology
Mason Bldg, 2nd Floor
Attention: Jim Flowers
Lansing, MI 48909

Contractor(s):

The Computer Solution Company
1525 Huguenot Road
Midlothian, VA 23113

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

(b) Binding Commitments

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

2.297 Media Releases and Contract Distribution

(a) Media Releases

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) Contract Distribution

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Acquisition Services.

2.298 Reformation and Severability

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

2.299 Consents and Approvals

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

**2.300 No Waiver of Default**

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.302 Covenant of Good Faith

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

2.303 Permits

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

2.304 Website Incorporation

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

2.305 Taxes

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

2.306 Prevailing Wage

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

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



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

2.307 Call Center Disclosure

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

2.308 Future Bidding Preclusion

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

2.310 Reserved

2.320 Extended Purchasing

2.321 MiDEAL

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: <http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

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

2.322 State Employee Purchases (Reserved)

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements

The following links contain certifications and terms which may be required for some purchases paid via Federal funds. They are included here to be utilized as required.

Lobbying Certifications are usually for agreements over \$100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html

http://www.archives.gov/federal_register/codification/executive_order/12549.html

http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf

<http://www.epls.gov/epls/servlet/EPLSearchMain/1>