

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

June 3, 2010

CHANGE NOTICE NO. 3  
TO  
CONTRACT NO. 071B6200274  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR		TELEPHONE (248) 473-7400	
Credit Technologies Inc. 40480 Grand River Avenue, Suite H Novi, MI 48375 <a href="mailto:tconwell@credittechnologies.com">tconwell@credittechnologies.com</a>		Thomas P. Conwell	
		BUYER/CA (517) 373-8622	
Contract Compliance Inspector: Al Scheffe		Malynda Little	
On-Line Credit Reporting Services – Department of Labor and Economic Growth			
CONTRACT PERIOD:		From: June 10, 2006 To: December 9, 2010	
TERMS	N/A	SHIPMENT	N/A
F.O.B.	N/A	SHIPPED FROM	N/A
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION:			

NATURE OF CHANGE(S):

Effective immediately, this contract is hereby XTENDED to December 9, 2010 and INCREASED by \$65,000.00. All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per DLEG request and State Administrative Board approval on 06/1/10.

INCREASE: \$65,000.00

REVISED CURRENT AUTHORIZED SPEND LIMIT: \$331,724.00

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

June 22, 2009

**CHANGE NOTICE NO. 2**  
**TO**  
**CONTRACT NO. 071B6200274**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE (248) 473-7400	
<b>Credit Technologies Inc.</b> <b>40480 Grand River Avenue, Suite H</b> <b>Novi, MI 48375</b> <a href="mailto:tconwell@credittechnologies.com">tconwell@credittechnologies.com</a>		<b>Thomas P. Conwell</b>	
		BUYER/CA (517) 373-8622	
Contract Compliance Inspector: Al Schefke		<b>Malynda Little</b>	
<b>On-Line Credit Reporting Services – Department of Labor and Economic Growth</b>			
CONTRACT PERIOD:		From: <b>June 10, 2006</b>	To: <b>June 9, 2010</b>
TERMS	<b>N/A</b>	SHIPMENT	<b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM	<b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS			
<b>N/A</b>			
MISCELLANEOUS INFORMATION:			

**NATURE OF CHANGE(S):**

Effective May 1, 2009, this Contract is hereby renewed and EXTENDED through June 9, 2010, exercising option 01 of 02 options, and INCREASED by \$80,000.00.

Additionally, the DMB Buyer for this Contract is now Malynda Little (517) 373-8622.

All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per agency request on 04/23/09, vendor agreement on 04/22/09, State Administrative Board approval on 06/16/09, and DMB/Purchasing Operations' approval on 04/28/09.

REVISED CURRENT AUTHORIZED SPEND LIMIT: \$266,724.00

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

August 22, 2008

CHANGE NOTICE NO. 1  
 TO  
 CONTRACT NO. 071B6200274  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE (248) 473-7400 <b>Thomas P. Conwell</b>	
<b>Credit Technologies Inc.</b> <b>40480 Grand River Avenue, Suite H</b> <b>Novi, MI 48375</b>  tconwell@credittechnologies.com			
		BUYER/CA (517) 373-7396 <b>Andy Ghosh, CPPB</b>	
Contract Compliance Inspector: Al Scheffe <b>On-Line Credit Reporting Services – Department of Labor and Economic Growth</b>			
CONTRACT PERIOD:		From: <b>June 10, 2006</b> To: <b>June 9, 2009</b>	
TERMS	<b>N/A</b>	SHIPMENT	<b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM	<b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>			
MISCELLANEOUS INFORMATION:			

**NATURE OF CHANGE(S):**

Effective immediately, this Contract is hereby INCREASED by \$50,000.00. All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per agency request, Ad Board approval on 8/19/08, and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: **\$186,724.00**

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

June 9, 2006

**NOTICE**  
**TO**  
**CONTRACT NO. 071B6200274**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Credit Technologies Inc.</b> <b>50481 West Pontiac Trail</b> <b>Wixom, MI 48393-2028</b>  <small>tconwell@credittechnologies.com</small>	TELEPHONE (248) 473-7400 <b>Thomas P. Conwell</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7396 <b>Andy Ghosh, CPPB</b>
Contract Compliance Inspector: Al Scheffe <b>On-Line Credit Reporting Services – Department of Labor and Economic Growth</b>	
CONTRACT PERIOD: From: <b>June 10, 2006</b> To: <b>June 9, 2009</b>	
TERMS  <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT  <p style="text-align: center;"><b>N/A</b></p>
F.O.B.  <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM  <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

The terms and conditions of this Contract are those of ITB #071I6200146, this Contract Agreement and the vendor's quote. 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: \$136,724.00**

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

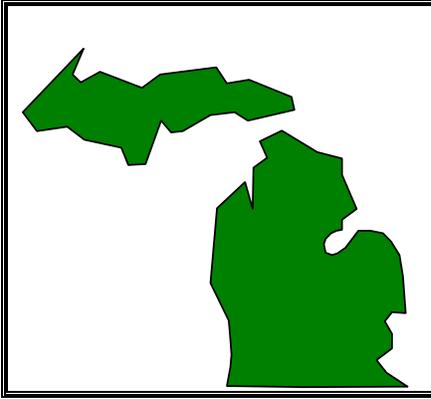
**CONTRACT NO. 071B6200274  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Credit Technologies Inc.</b> <b>40480 Grand River Avenue, Suite H</b> <b>Novi, MI 48375</b>  <small>tconwell@credittechnologies.com</small>	TELEPHONE (248) 473-7400 <b>Thomas P. Conwell</b> VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 373-7396 <b>Andy Ghosh, CPPB</b>
Contract Compliance Inspector: Al Schefke <b>On-Line Credit Reporting Services – Department of Labor and Economic Growth</b>	
CONTRACT PERIOD: From: <b>June 10, 2006</b> To: <b>June 9, 2009</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of ITB #071I6200146, this Contract Agreement and the vendor's quote. 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.</b>	
<b>Estimated Contract Value: \$136,724.00</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I6200146. A Purchase order Form will be issued only as the requirements of the Department of Labor and Economic Growth are submitted to Purchasing Operations. Orders for delivery may be issued directly by the Department of Labor and Economic Growth through the issuance of a Purchase Order Form.

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

<p><b>FOR THE VENDOR:</b></p> <p style="text-align: center;"><b>Credit Technologies Inc.</b>          _____          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><b>FOR THE STATE:</b></p> <p style="text-align: center;">_____          Signature  <b>Andy Ghosh, CPPB, Buyer Specialist</b>          _____          Name  <b>Services Division, Purchasing Operations</b>          _____          Title</p> <p style="text-align: center;">_____          Date</p>
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**STATE OF MICHIGAN  
Department of Management and Budget  
Acquisition Services**

**Contract No. 071B6200274  
On-Line Credit Reporting Services for Department of Labor & Economic Growth**

**Buyer Name: Andy Ghosh  
Telephone Number: 517-373-7396  
E-Mail Address: ghosha@michigan.gov**



On-Line Credit Reporting Services

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## Article 1 – Statement of Work (SOW)

### 1.0 Project Identification

#### 1.01 PROJECT REQUEST

The Michigan Department of Labor & Economic Growth, Bureau of Commercial Services in Michigan is the state agency responsible for the licensure and regulation of the twenty-eight commercial occupations and professions in the State of Michigan. The STATE is mandated by statute to review the financial stability of applicants for residential builders, maintenance & alteration contractors, boxing promoters, collection agency and cemetery licenses before a license can be granted. The STATE receives approximately 7,000 applications annually which require review of a credit report. The STATE requires electronic access to credit reports to review the financial history of applicants for residential builders, maintenance & alteration contractors, boxing promoters, collection agency and cemetery licenses. The STATE reviews approximately 10,000 individual reports and 1,000 company reports annually.

#### 1.02 BACKGROUND

The STATE has the authority to utilize an outside CONTRACTOR based on the Occupational Code P.A. 299 of 1980, as amended, which states that administration and related responsibilities can be delegated to “any other person” or agency.

The STATE currently has a subscription with an external organization for access to a credit reporting service to electronically review an applicant’s credit history rather than asking the applicant to have a credit report mailed to the STATE. The current subscription provides credit information reported by the three major credit reporting companies. Specifically, TransUnion, Experian, and Equifax. Contractor is to provide access to electronic credit histories to the State.

The credit information must be accessible at staff workstations via the Internet with no additional equipment required. Staff need to review the reports with an option to print the information. Printing credit information is only necessary when the applicant has derogatory credit information requiring follow-up. For each applicant with derogatory information, staff needs to print one credit report from each of the three reporting agencies along with a derogatory accounts letter. The cost of using a subscription credit reporting system saves staff time compared to using the paper/labor intensive methods of the past. Additional staff time is saved because staff does not have to send notices of incomplete applications to applicants who fail to have a credit report submitted to the agency.

### 1.1 Scope of Work and Deliverables

#### 1.101 IN SCOPE

The purpose of this Invitation to Bid (ITB) is to select a subscriber of credit reporting services to provide an electronic credit history of applicants applying for Michigan licensure as a residential builder, maintenance and alteration contractor, boxing promoter, cemetery, collection; and electronically transmit that information to the STATE. The eventual contractor shall perform the following activities:

- Provide the ability for the STATE to produce electronic merged credit reports (a report with information from Trans Union, Experian, and Equifax) or choose from one of the three credit reporting agencies.
- Provide a secured internet site at which the STATE can view and print credit reports.
- Allow the STATE to set up passwords on a secured Internet site for access to credit reports.
- On an as needed basis, allow the STATE to access credit scores.
- Provide a built-in check on credit inquiries by identifying input addresses, social security numbers, telephone numbers, subject to the Fair Credit Reporting Act.
- Immediately transmit to the STATE electronic credit reports and derogatory credit account reports either in whole or in part as the STATE may specify for individuals on a secured Internet site.
- Prepare and transmit business credit reports for companies within three (3) business days either in whole or in part as the STATE may specify on a secured Internet site.
- Establish a toll-free number for use by applicants and the STATE.
- Develop software that the contractor will use to transmit information electronically to the STATE.
- Submit to the STATE electronically information regarding an applicant’s credit history.



- To facilitate the electronic transmission of data to the STATE, its manipulation and use, by the contractor shall provide:
  1. Necessary hardware and/or software for use by STATE personnel to review credit report information and to print such information for use by the STATE.
  2. Electronic mail capabilities to be used by both parties for transmitting information to each other.
  3. Direct access to contractor personnel to deal with computer problems.
  4. On-site training for STATE personnel in the proper use of the system software.
- Provide all other related activities and add on services on an “as needed” basis when determined necessary by the STATE.

### **1.102 OUT OF SCOPE**

Only the STATE has the authority to determine an applicant’s financial stability for licensure.

### **1.103 TECHNICAL ENVIRONMENT**

Contractor is to establish and maintain the necessary buildings, staff, computers, profession-specific equipment and supplies, and all necessary items, in optimal working order, to accomplish the following:

Provide access to credit information and reports at staff work stations via the Internet and website with no additional equipment required by the STATE.

Provide the STATE the ability to assign users as needed.

### **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 a list of the minimum tasks involved for developing and administering the product. The CONTRACTOR is not, however, constrained from supplementing the tasks with additional steps, sub-tasks or elements deemed necessary to permit the development of alternative approaches or application of alternative analytical or administration techniques.

- Establish a toll-free telephone number for use by applicants and the STATE may contact CONTRACTOR and reporting credit bureaus in order to pursue update of credit information reported.
- Provide access to data and designated contact person between 8:00 a.m. and 5:00 p.m., Monday – Friday, for contact by the STATE to address contract issues.
- Provide immediate electronic access to individual credit reports with credit scores listed via Internet on a secured site.
- Provide company credit reports within 3 business days.
- Submit for STATE approval, all documents to be distributed to applicants. Any changes made to these forms during the duration of the contract must be approved by the STATE.
- Notify the Contract Administrator of any administrative and technical changes to services provided.
- Provide a Contract Administrator for the STATE to address problems, concerns or to troubleshoot.
- CONTRACTOR will address concerns of the applicant and STATE regarding derogatory credit items on credit reports.

## **1.2 Roles and Responsibilities**

### **1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES**

The Michigan based, local office must employ at least one individual responsible for Michigan contract concerns. This individual must have authority to answer questions and effect changes or clarifications necessary to ensure the continuity of contract administration.

Telephone coverage must ensure that questions are answered accurately and in a timely manner. CONTRACTOR must have staff to answer questions regarding derogatory items on credit reports.



CONTRACTOR must dedicate sufficient resources such that there is no confusion about the requirements of other clients.

CONTRACTOR is to define what information will be provided on a credit report, credit history, credit scores, public records check, etc. and indicate the charges for various levels of information.

### **1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES**

Alan J. Schefke, Director, Administrative Services Division – Contract Administrator  
Gloria Keene, Licensing Administrator, Licensing Division – Daily contact individual  
Linda Clewley, Assistant Licensing Administrator, Licensing Division – Back-up to Daily contact individual

### **1.203 OTHER ROLES AND RESPONSIBILITIES - RESERVED**

## **1.3 Project Plan**

### **1.301 PROJECT PLAN MANAGEMENT**

The Contractor will carry out this project under the direction and control of the DMB Acquisition Services.

Although there will be continuous liaison with the Contractor team, the State agency's coordinator will meet periodically with the Contractor's project manager, for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

### **1.302 REPORTS**

- CONTRACTOR is to notify STATE as early as possible (preferably two weeks in advance) of required approval (as outlined in the ITB) from the STATE thereby giving the STATE sufficient time to grant approvals, as necessary.
- CONTRACTOR is to provide a monthly invoice and itemized statement in a format specified by the STATE. The invoice must include the name, social security number, person viewing or requestig the credit history and the charge associated with each record. Additionally, each invoice shall identify the number of company and individual credit reports viewed during the billing period, as well as the total charge for services.
- CONTRACTOR is to provide electronic reports containing information in a format specified by the Department.

## **1.4 Project Management**

### **1.401 ISSUE MANAGEMENT**

Issues are those things that endanger the project. It includes imminent threats and events that may have already occurred. Propose a standard issue management process for managing this contract as part of your bid response. Include responsible parties, phone numbers, email addresses if relevant, and processes. Identify how issues will be captured, reported and escalated.

This project is impacted by funding that could be reduced due to budget constraints. The funding could be reduced due to budget issues, which could result in only part of the deliverables being received.

### **1.402 RISK MANAGEMENT**

Propose your standard Risk Management process for managing this contract as part of your bid response. Include responsible parties, phone numbers, email addresses if relevant, and processes. Identify how issues will be captured, reported and escalated.



### 1.403 CHANGE MANAGEMENT

The Agency Project Manager will identify any changes to the project. These changes could include increased/decreased need.

Describe your change management approach. What are the triggers for the need for a change request? Requests for modification of the Contract, whether in scope, pricing, time frames, or a combination of thereof, must be submitted through the Department of Management and Budget, Office of Acquisition Service's Buyer, (see section 2.014) for approval and processing, or denial (see Section 2.101, generally).

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.

Each proposal will be evaluated to ensure it meets the ability of the information requested. Cost and ease of services will be evaluated. User friendliness and ability to access services will be evaluated.

The bidder shall specifically stipulate that the bid proposal is predicated upon the acceptance of all terms and conditions stated in the ITB. If the bidder objects to any term or condition, reference the specific ITB page, section and line number(s) and provide a justification for the objection. Objections or responses that materially alter the ITB shall be deemed non-responsive and may result in a reduction of awarded points.

### 1.502 FINAL ACCEPTANCE

Final Acceptance occurs when the project is completed and functions according to the requirements of the SOW. Final Acceptance for this contract occurs when all the processes are established and running in a fashion acceptable to the STATE. Any intermediate acceptance of sub-Deliverables does not constitute Final Acceptance.

## 1.6 Compensation and Payment

STATE shall pay the CONTRACTOR an amount not to exceed the agreed upon price by a detailed monthly electronic and mailed invoice for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. The STATE is not to be billed finance charges in accordance with the STATE statute.

## 1.7 Additional Terms and Conditions Specific to this SOW - Reserved



## Article 2 – General Terms and Conditions

### 2.0 Introduction

#### 2.001 GENERAL PURPOSE

This Contract is for on-line credit reporting services for the STATE. Orders will be issued directly to the CONTRACTOR by various State Agencies on the Purchase Order Contract Release Form.

#### 2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services, for the Department of Labor & Economic Growth, Bureau of Commercial Services, hereinafter known as STATE. Where actions are a combination of those of Acquisition Services and the State agencies, the authority will be known as the STATE.

Acquisition Services is the sole point of contact in the STATE with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

**CONTRACTOR proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Acquisition Services and the listed contract administrator.**

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget  
Acquisition Services  
Attn: Andy Ghosh  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
(517) 373-7396  
*ghosha@michigan.gov*

#### 2.003 NOTICE

Any notice given to a party under this Contract must be written and 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.

#### 2.04 CONTRACT TERM

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. The attached Excel spreadsheet requests that you price (as discounts) varying term lengths for this Contract. **The State reserves the right to select the term length that's in its best interests based on the pricing received.**

This Contract is for a period of three (3) years, commencing on the date that the last signature required to make the Contract enforceable is obtained.



**Option.** The STATE reserves the right to exercise two one-year options, at the sole option of the STATE. CONTRACTOR performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Written notice will be provided to the Contractor with the State's intent to extend the contract within 30 days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government exercises this option, the extended contract shall be considered to include this option clause.

## 2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

## 2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

MI OSHA MCL §§ 408.1001 – 408.1094

Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.

Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.

MI Consumer Protection Act MCL §§ 445.901 – 445.922

Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.

Department of Civil Service Rules and regulations

Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.

Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.

MCL §§ 423.321, et seq.

MCL § 18.1264 (law regarding debarment)

Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.

Contract Work Hours and Safety Standards Act (CWHSSA) 40 USCS § 327, et seq.

Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795

Rules and regulations of the Environmental Protection Agency

Internal Revenue Code

Rules and regulations of the Equal Employment Opportunity Commission (EEOC)

The Civil Rights Act of 1964, USCS Chapter 42

Title VII, 42 USCS §§ 2000e et seq.

The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.

The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.

The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.

The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.

The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106

Sherman Act, 15 U.S.C.S. § 1 et seq.

Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.

Clayton Act, 15 U.S.C.S. § 14 et seq.

Occupational Code MCL 339.101 et seq. and all rules promulgated thereunder

Cemetery Regulation Act 1968 PA 251 MCL 456.521 et seq.

**2.007 RELATIONSHIP OF THE PARTIES**

The relationship between the STATE and the CONTRACTOR is that of client and independent CONTRACTOR. No agent, employee, or servant of the 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. The CONTRACTOR will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

**2.008 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 this Contract.

**2.009 MERGER**

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

**2.010 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.

**2.011 SURVIVORSHIP**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the CONTRACTOR'S indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

**2.012 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.

**2.013 PURCHASE ORDERS**

Orders for delivery of commodities and/or services may be issued directly by the STATE through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. CONTRACTOR is asked to reference the Purchase Order Number on all invoices for payment.

**2.1 Vendor/Contractor Obligations****2.101 ACCOUNTING RECORDS**

The CONTRACTOR and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the STATE. Financial and accounting records shall be made available, upon request, to the STATE, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

**1. 2.102 NOTIFICATION OF OWNERSHIP -RESERVED****2.103 SOFTWARE COMPLIANCE - RESERVED**

**2.104 IT STANDARDS - RESERVED****2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE) - RESERVED****2.106 PREVAILING WAGE - RESERVED****2.107 PAYROLL AND BASIC RECORDS - RESERVED****2.108 COMPETITION IN SUB-CONTRACTING**

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.

**2.109 CALL CENTER DISCLOSURE**

Vendor 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 agreement.

**2.2 Contract Performance****2.201 TIME IS OF THE ESSENCE**

CONTRACTOR/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the STATE a right to invoke all remedies available to it under this contract.

**2.202 CONTRACT PAYMENT SCHEDULE**

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

**2.203 POSSIBLE PROGRESS PAYMENTS**

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

**2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered) - RESERVED****2.205 ELECTRONIC PAYMENT AVAILABILITY**

Electronic transfer of funds is available to State contractors. Vendor is required register with the State of Michigan Office of Financial Management so the STATE can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

**2.206 PERFORMANCE OF WORK BY CONTRACTOR - RESERVED****2.3 Contract Rights and Obligations****2.301 INCURRING COSTS**

The STATE is not liable for any cost incurred by the CONTRACTOR prior to signing of the Contract. The STATE fiscal year is October 1st through September 30th. The CONTRACTOR(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the STATE is limited to terms and conditions of the Contract.



### 2.302 CONTRACTOR RESPONSIBILITIES

The CONTRACTOR will be required to assume responsibility for all contractual activities, whether or not that CONTRACTOR performs them. Further, the STATE will consider the CONTRACTOR to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The STATE reserves the right to approve subcontractors and to require the CONTRACTOR to replace subcontractors found to be unacceptable. The CONTRACTOR is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the STATE, in writing, prior to such change.

### 2.303 ASSIGNMENT AND DELEGATION

The CONTRACTOR shall not have the right to assign this Contract, to assign its rights under this contract, 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 STATE. Any purported assignment in violation of this Section shall be null and void. Further, the CONTRACTOR may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

The CONTRACTOR shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

### 2.304 TAXES

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

Federal Excise Tax: The STATE may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the STATE'S exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the CONTRACTOR upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

### 2.305 INDEMNIFICATION

#### General Indemnification

To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend and hold harmless the STATE, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the STATE, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the CONTRACTOR or any of its subcontractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the STATE, its employees and agents arising out of or resulting from a breach by the CONTRACTOR of any representation or warranty made by the CONTRACTOR in the Contract;



3. Any claim, demand, action, citation or legal proceeding against the STATE, its employees and agents arising out of or related to occurrences that the CONTRACTOR is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the STATE, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the CONTRACTOR, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the STATE;
5. Any claim, demand, action, citation or legal proceeding against the STATE, its employees and agents which results from an act or omission of the CONTRACTOR or any of its subcontractors in its or their capacity as an employer of a person.

#### Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend and hold harmless the STATE, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements 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 or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the 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 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.

#### 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.

#### Indemnification Obligation Not Limited

In any and all claims against the STATE, or any of its agents or employees, 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 benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, 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 sub clause.



### Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

### 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 so 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, 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.

## **2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the CONTRACTOR nor the STATE shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages 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; to CONTRACTOR'S indemnification obligations (2.305); 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.

### **2.307 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.

### **2.308 FORM, FUNCTION, AND UTILITY**

If the Contract is for use of more than one STATE agency and if the good or service provided under this Contract do not the meet the form, function, and utility required by a State agency, that agency may, subject to STATE purchasing policies, procure the good or service from another source.

### **2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the STATE all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this STATE for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this STATE pursuant to this transaction.

### **2.310 RESERVED**

### **2.311 TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the CONTRACTOR must provide for up to six months after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the STATE, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the STATE or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The STATE shall pay the CONTRACTOR for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

### **2.312 WORK PRODUCT - RESERVED**

### **2.313 PROPRIETARY RIGHTS \_ RESERVED**

### **2.314 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.



## 2.4 Contract Review and Evaluation

### 2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Acquisition Services of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Acquisition Services.** The Contract Compliance Inspector for this project is:

Alan J. Schefke, Director, Administrative Services Division  
Department of Labor & Economic Growth – Bureau of Commercial Services  
2501 Woodlake Circle, 1<sup>st</sup> Floor, Okemos, MI 48864  
(517) 241-9226 or aschef@michigan.gov

### 2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with the Department of Labor & Economic Growth may review with the CONTRACTOR their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on CONTRACTOR'S past performance with the STATE. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the CONTRACTOR shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, the Contract may be canceled for default. Delivery by the CONTRACTOR of unsafe and/or adulterated or off-condition products to any STATE agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

### 2.403 AUDIT OF CONTRACT COMPLIANCE/ 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.

## 2.5 Quality and Warranties

### 2.501 PROHIBITED PRODUCTS - RESERVED

### 2.502 RESERVED

### 2.503 RESERVED

### 2.504 GENERAL WARRANTIES (goods) - RESERVED

### 2.505 CONTRACTOR WARRANTIES

The Contract will contain customary representations and warranties by the CONTRACTOR, including, without limitation, the following:

1. The CONTRACTOR will perform all services in accordance with high professional standards in the industry;
2. The CONTRACTOR will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;



3. The CONTRACTOR will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the STATE;
4. The CONTRACTOR will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
5. The CONTRACTOR will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The CONTRACTOR will perform the services in a manner that complies with all applicable laws and regulations;
7. The CONTRACTOR has duly authorized the execution, delivery and performance of the Contract;
8. The CONTRACTOR is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.
9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.
10. The CONTRACTOR 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 license use, as applicable, of any and all Deliverables.
11. 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 as set forth 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.
12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of CONTRACTOR.
13. The CONTRACTOR is qualified and registered to transact business in all locations where required.
14. 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.
15. All financial statements, reports, and other information furnished by CONTRACTOR to the STATE as part of its response to the ITB 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 changes in the business, properties, financial condition, or results of operations of CONTRACTOR. 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.

**2.506 STAFF -RESERVED**

**2.507 SOFTWARE WARRANTIES - RESERVED****2.508 EQUIPMENT WARRANTY - RESERVED****2.509 PHYSICAL MEDIA WARRANTY - RESERVED****2.6 Breach of Contract****2.601 BREACH DEFINED**

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the STATE authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this contract, if the CONTRACTOR breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

**2.602 NOTICE AND THE RIGHT TO CURE**

In the event of a curable breach by the CONTRACTOR, the STATE shall provide the CONTRACTOR written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the STATE determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

**2.603 EXCUSABLE FAILURE**

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another CONTRACTOR); 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 subcontractor's 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 best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the STATE'S functions for more than 14 consecutive 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 from an alternate source, and the STATE shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the STATE may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the STATE to the CONTRACTOR as of the date specified by the STATE in a written notice of cancellation to the CONTRACTOR. The CONTRACTOR will not have the right to any additional payments from the STATE as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition.



Defaults or delays in performance by the CONTRACTOR which are caused by acts or omissions of its subcontractors will not relieve the CONTRACTOR of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the CONTRACTOR cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

## 2.7 Remedies

### 2.701 CANCELLATION

The STATE may cancel 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:

1. Material Breach by the CONTRACTOR. In the event that the CONTRACTOR breaches any of its material duties or obligations under the Contract, 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, 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 cancellation to the CONTRACTOR, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the STATE by law or equity, the CONTRACTOR shall be responsible for all costs incurred by the STATE in canceling the Contract, including but not limited to, STATE administrative costs, attorneys fees and court costs, and any additional costs the STATE may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the STATE chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the CONTRACTOR was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

2. Cancellation For Convenience By the STATE. The STATE may cancel this Contract for its convenience, in whole or part, if the STATE determines that such a cancellation is in the STATE'S best interest. Reasons for such cancellation shall be left to the sole discretion of the STATE and may include, but not 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 Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the STATE. The STATE may cancel the Contract for its convenience, in whole or in part, by giving the CONTRACTOR written notice 30 days prior to the date of cancellation. If the STATE chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the STATE to effect continued payment under this Contract are not appropriated or otherwise made available. The 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 project. If funds are not appropriated or otherwise made available, the STATE shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the CONTRACTOR. The STATE shall give the CONTRACTOR written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.



4. Criminal Conviction. In the event the CONTRACTOR, an officer of the CONTRACTOR, or an owner of a 25% or greater share of the CONTRACTOR, is convicted of a criminal offense incident to the application for or performance of a STATE, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to 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 the CONTRACTOR'S business integrity.
5. 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, section 5, and Civil Service Rule 7. 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.

## 2.702 RIGHTS UPON CANCELLATION

**Termination Assistance.** If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, CONTRACTOR agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the STATE to facilitate the orderly transfer of such Services to the STATE or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the STATE if the termination is for CONTRACTOR'S Default pursuant to Section 2.602; otherwise the STATE shall compensate CONTRACTOR for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates identified within this Contract agreement.

## 2.703 LIQUIDATED DAMAGES – RESERVED.

## 2.704 STOP WORK - RESERVED

## 2.705 SUSPENSION OF WORK

The Contract Administrator may order the CONTRACTOR, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

- (1) For any costs incurred more than 20 days before the CONTRACTOR shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and



- (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## 2.8 Changes, Modifications, and Amendments

### 2.801 APPROVALS

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

### 2.802 TIME EXTENTIONS

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

### 2.803 MODIFICATION

Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the CONTRACTOR resulting from the proposed changes are subject to acceptance by the STATE. Changes may be increases or decreases. **IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.**

**The STATE reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor.** The item(s) may be included on the Contract, only if prior written approval has been granted by Acquisition Services.

### 2.804 AUDIT AND RECORDS UPON MODIFICATION

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

CONTRACTOR shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the STATE deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the STATE shall have the right to examine and audit all of the CONTRACTOR'S records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

CONTRACTOR shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

**2.805 CHANGES**

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
- (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
  - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the CONTRACTOR gives the Contract Administrator written notice stating:
- (1) The date, circumstances, and source of the order; and
  - (2) That the CONTRACTOR regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the CONTRACTOR to an equitable adjustment.

**2.809 LIABILITY INSURANCE****A. 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, 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 coverage provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the STATE.

The insurance 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. Companies that have been approved to do business in the STATE shall issue all policies of insurance required in this Contract.

See [www.michigan.gov/dleg](http://www.michigan.gov/dleg)

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



Before both parties sign the Contract 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 coverage 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, 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, 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 a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, CONTRACTOR must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

The CONTRACTOR also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision 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. Umbrella or Excess Liability Insurance in a minimum amount of two million dollars (\$2,000,000.00), 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: one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) annual aggregate.

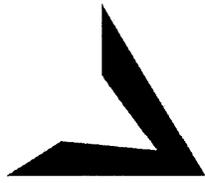
**B. Subcontractors**

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, but only to the extent of liabilities assumed by CONTRACTOR as set forth in Indemnification Section of this Contract, 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.



# CREDIT TECHNOLOGIES, INC.<sup>®</sup>

## Invitation to Bid No. 07116200146 On-Line Credit Reporting Services

### Total Product Counts and Costs 2003-2005

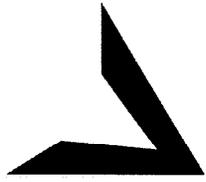
Product	Price	2003 Orders	2003 Cost	2004 Orders	2004 Cost	2005 Orders	2005 Cost	Total Cost
Single Bureau	3.25	7421	24,118.25	8069	26,224.25	9407	30,572.75	80,915.25
Joint Single Bureau	6.5	3	19.5	0	0	0	0	19.5
2 Bureaus	6.5	6	39	11	71.5	57	370.5	481
3 Bureaus	9.75	12	117	18	175.5	230	2,242.50	2,535
Canadian	25	0	0	2	50	3	75	125
Business No-Hit	15	397	5,955.00	650	9,750.00	805	12,075.00	27,780
Business Hit	50	408	20,400	237	11,850.00	313	15,650.00	47,900
			50,648.75		48,121.25		60,985.75	159,755.75

### Projected Future Costs 2006-2009 Using New Bid Amount with Past Utilization

Product	Price	2003 Orders	2003 Cost	2004 Orders	2004 Cost	2005 Orders	2005 Cost	Total Cost
Single Bureau	2.95	7421	21,891.00	8069	23,803.55	9407	27,750.65	73,445.20
Joint Single Bureau	5.9	3	17.7	0	0.00	0	0.00	17.70
2 Bureaus	5.9	6	35.4	11	64.90	57	336.30	436.60
3 Bureaus	8.85	12	106.2	18	159.30	230	2,035.50	2,301.00
Canadian	25	0	0	2	50.00	3	75.00	125.00
Business No-Hit	12.63	397	5,014.11	650	8,209.50	805	10,167.15	23,390.76
Business Hit	38.63	408	15,761	237	9,155.31	313	12,091.19	37,007.54
			42,825.45		41,442.56		52,455.79	136,723.80

Based on prior utilization and current bid values, the total bid amount is \$136,723.80. This represents an overall cost savings of **\$23,031.95 (14.4%)**

40480 Grand River Ave., Suite H  
Novi, Michigan 48375-2874  
Voice 248.473.7400  
Facsimile 248.473.7405  
www.CreditTechnologies.com



# CREDIT TECHNOLOGIES, INC.<sup>®</sup>

## Proposal

### Invitation to Bid No. 07116200146 On-Line Credit Reporting Services

#### 4.301 CAPABILITIES AND QUALIFICATIONS OF ORGANIZATION

Credit Technologies, Inc. A Michigan Corporation located at 40480 Grand River Ave., Ste H. Novi, MI 48375-2874 is a national credit reporting agency and has been in continuous operation since February, 1990.

#### 4.302 PRIOR EXPERIENCE

Credit Technologies has processed more than 7 million credit report transactions in its 16 year history. Our Clients include State and Federal governments as well as national banks and leading lenders nationwide. We have the privilege of being the current provider of credit reporting services to The State of Michigan. At the inception of the current service agreement, we developed and implemented a custom solution to meet the specific needs of the State including Internet based access and deliver of credit reports and ancillary reports customized to State of Michigan requirements. Over the years we have adapted these systems and processes to accommodate the States changing needs.

#### 4.303 QUALIFIED PERSONNEL/STAFFING

The service team handling the State of Michigan account is headed by Kelly Marcum who has served in the role of Production Manager for the past 4 years. Lead customer service agent is Michelle Bishop, who has been with Credit Technologies for 8 years and has been lead on the State of Michigan account since it's inception. Both Kelly and Michele may be reached at 800.445.4922. All Credit Technologies staff undergo extensive background checks including criminal record searches and drug screening. Each employee completes an intensive 6 month training program including formal testing which culminates in certification through the National Association of Credit Reporting Agencies (NCRA). No subcontractors are utilized. All customer service staff members are based in our Novi Michigan headquarters and are full time employees of Credit Technologies, Inc.

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#### 4.304 SCOPE OF WORK AND DELIVERABLES

As Credit Technologies currently provides the State of Michigan with the credit reporting services detailed in this proposal, there are no new in-scope or out-of-scope deliverables that apply. The technology is in place and performing as designed. This proposal represents a continuation of the existing service and technology while providing additional cost concessions.

#### 4.305 WORK PLAN

Credit Technologies is the current provider of credit reporting services to the State of Michigan. All technology, solutions and training is in place and performing as designed. As a result, there are no system changeover, software programming/implantation or training requirements.

#### 4.306 PROJECT MANAGEMENT

The existing management and production team will remain in place. We forecast no changes in key personnel or issue/risk management. Additional, fully trained personnel are on-site and available should the needs of the State increase.

#### 4.307 COMPENSATION AND PAYMENT

The existing compensation plan in place consists of payments issued in a net 30 days fashion. No changes are forecast. Credit Technologies is registered with the Office of Financial Management for electronic payments.

Thomas P Conwell III  
President

CREDIT TECHNOLOGIES, INC.

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