

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

525 W. ALLEGAN STREET  
 LANSING, MI 48933

P.O. BOX 30026  
 LANSING, MI 48909

CHANGE NOTICE NO. 10  
 to  
 CONTRACT NO. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Veritec Solutions, Llc 9428 Baymeadows Rd, Suite 600 Jacksonville FL, 32256	Thomas Reinheimer	Tomas.reinheimer@veritecs.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	904-421-7230	*****2805

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Alexander, Diane	517-284-8656	alexanderd@Michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Terry Mead	(517) 284-7035	meadt@michigan.gov

CONTRACT SUMMARY			
<b>DESCRIPTION:</b> Web-Based Database System To Track Deferred Presentment Transactions			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 6, 2006	June 5, 2009	3 - 2 Year	June 5, 2019
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$15,700,000.00	\$ 0.00	\$15,700,000.00		
<b>DESCRIPTION:</b> Effective April 19, 2016, the parties agree to change the effective dates of the \$0.49 Verification Fee established in Change Notice 9 from June 6, 2016 – June 5, 2019 to July 1, 2016 – June 30, 2019. All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency and DTMB Procurement agreement.				

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

**CHANGE NOTICE NO. 9**  
 to  
**CONTRACT NO. 071B6200311**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Veritec Solutions, Llc 9428 Baymeadows Rd, Suite 600 Jacksonville FL, 32256	Thomas Reinheimer	Tomas.reinheimer@veritecs.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	904-421-7230	*****2805

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Alexander, Diane	517-335-5253	alexanderd@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Jarrod Barron	517-284-7045	barronj1@michigan.gov

CONTRACT SUMMARY			
<b>DESCRIPTION:</b> Web-Based Database System To Track Deferred Presentment Transactions			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 6, 2006	June 5, 2009	3 - 2 Year	June 5, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	3 years	June 5, 2019
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$12,100,000.00		\$ 3,600,000.00	\$15,700,000.00	

**DESCRIPTION:** Effective December 15, 2015, the parties agree to extend the contract 3 years pursuant to Section 5.7.6 of the Michigan Procurement Policy Manual to continue existing operations, hosting and maintenance, which has continuing useful life. The parties set the Verification Fee at \$.49 per transaction for the period June 6, 2016 – June 5, 2019. The parties also add six option years to the contract which may be used upon mutual agreement, allowing for a potential future revised expiration date of June 5, 2025. All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency and DTMB Procurement agreement and State Administrative Board approval on December 15, 2015.

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

**CHANGE NOTICE NO. 8**  
 to  
**CONTRACT NO. 071B6200311**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Veritec Solutions, LLC 9428 Baymeadows Road, Suite 600 Jacksonville, FL 32256	Thomas Reinheimer	Thomas.reinheimer@veritecs.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(904) 421-7239	-2805

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Diane Alexander	(517) 335-5253	alexanderd@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Terry Mead	(517) 294-7035	Meadt@michigan.gov

CONTRACT SUMMARY			
<b>DESCRIPTION:</b> DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 6, 2006	June 5, 2009	3, two years	December 5, 2015
PAYMENT TERMS	F.O.B.	SHIPPED TO	
N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6 months	June 5, 2016
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$11,450,000.00		\$650,000.00	\$12,100,000.00	

**DESCRIPTION:**  
 Effective 6/1/15, per Ad Board Resolution 2015-1, this contract is hereby extended for six months. The new contract end date is June 5, 2016. This contract is also increased by \$650,000.00. The new contract value is \$12,100,000.00. Pricing will be as per the attached Transaction Volume Assessment for the period of 12/6/2015 – 6/5/16. Please note that the buyer has been changed to Terry Mead. All other terms, conditions, pricing and specifications remain the same. Per contractor and agency agreement and DTMB Procurement approval.

May 5, 2015

*via email only*

Terry L. Mead  
DTMB – Procurement Buyer, IT Division  
Constitution Hall – 1st Floor  
525 West Allegan  
Lansing, Michigan 48913

**RE: Extension of Contract 071B6200311**

Dear Mr. Mead –

Thank you for your email outlining the opportunity to extend our current contract for on-going support of the Deferred Presentment Program. Accordingly, we are pleased to agree with extending the contract for an additional 6 months at the current terms.

Please find attached our monthly estimated volumes and charges for December 2015 through June 2016 per your request (PDF and Excel formats).

We appreciate the opportunity to support this important initiative for the Department of Insurance and Financial Services. We will continue to work toward meeting or exceeding your expectations for quality service.

Sincerely,



Thomas H Reinheimer  
Chief Executive Officer  
904-421-7239 office  
[Thomas.Reinheimer@Veritecs.com](mailto:Thomas.Reinheimer@Veritecs.com)

Veritec Solutions LLC Michigan Deferred Presentment Program  
Transaction Volume Assessment for 6-month Contract Extension

State of Michigan  
Transaction Volume & Database Fee Assessment for December 2015 - June 2016  
To Assist State with Purchase Order Dollar Amount

		Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16
Prior month/year actuals		242,937	243,969	172,486	181,395	200,754	241,665	217,785
Increase of 5% for Risk Assessment		12,147	12,198	8,624	9,070	10,038	12,083	10,889
Total Estimated Volume		255,084	256,167	181,110	190,465	210,792	253,748	228,674
Total Estimated Charges (\$0.45 DB Fee)	\$0.45	\$114,788	\$115,275	\$81,500	\$85,709	\$94,856	\$114,187	\$102,903

Total Estimated Volume Dec 2015 - Jun 2016		1,576,041
Total Estimated Charges Dec 2015 - Jun 2016		\$709,218

**State of Michigan**  
**Transaction Volume & Database Fee Assessment for**  
**December 2015 - June 2016**  
**To Assist State with Purchase Order**  
**Dollar Amount**

		<b>Dec-15</b>	<b>Jan-16</b>	<b>Feb-16</b>	<b>Mar-16</b>	<b>Apr-16</b>	<b>May-16</b>	<b>Jun-16</b>
Prior month/year actuals		242,937	243,969	172,486	181,395	200,754	241,665	217,785
Increase of 5% for Risk Assessment		12,147	12,198	8,624	9,070	10,038	12,083	10,889
<b>Total Estimated Volume</b>		<b>255,084</b>	<b>256,167</b>	<b>181,110</b>	<b>190,465</b>	<b>210,792</b>	<b>253,748</b>	<b>228,674</b>
<b>Total Estimated Charges (\$0.45 DB Fee)</b>	<b>\$0.45</b>	<b>\$114,788</b>	<b>\$115,275</b>	<b>\$81,500</b>	<b>\$85,709</b>	<b>\$94,856</b>	<b>\$114,187</b>	<b>\$102,903</b>

<b>Total Estimated Volume Dec 2015 - Jun 2016</b>		<b>1,576,041</b>
<b>Total Estimated Charges Dec 2015 - Jun 2016</b>		<b>\$709,218</b>

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

**CHANGE NOTICE NO. 7**  
 to  
**CONTRACT NO. 071B6200311**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Veritec Solutions, LLC 9428 Baymeadows Road, Suite 600 Jacksonville, FL 32256	Thomas Reinheimer	<a href="mailto:Thomas.reinheimer@veritecs.com">Thomas.reinheimer@veritecs.com</a>
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(904) 421-7239	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB-IT	Diane Alexander	517-335-5253	<a href="mailto:alexanderd@michigan.gov">alexanderd@michigan.gov</a>
BUYER	DTMB	Barb Suska	517-284-7026	<a href="mailto:suskab@michigan.gov">suskab@michigan.gov</a>

CONTRACT SUMMARY:			
DESCRIPTION: <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 6, 2006	June 5, 2009	3 - 2 Year	June 5, 2015
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
1B-201.1.1 -N/A	N/A	1B-201.1.2 -N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6 months	Dec. 5, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$650,000.00		\$11,450,000.00		
Effective August 28, 2014, per Ad Board Resolution 2014-1, this contract is hereby extended for six (6) months beyond the option years. The new contract end date is December 5, 2015. Contract is also increased by \$650,000.00. New contract value is \$11,450,000.00. Pricing will be per the attached for the period of 10/1/14 to 12/5/15. Please note that the buyer has been changed to Barb Suska. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.				

Veritec Solutions LLC Michigan Deferred Presentment Program  
Transaction Volume Assessment for 6-month Contract Extension

	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15
Prior month/year actuals	244,258	232,545	235,862	258,975	185,546	188,132	200,754	241,665	217,785	237,302	273,675	229,857	251,586	239,521	242,937
Increase of 5% for Risk Assessment	12,213	11,627	11,793	12,949	9,277	9,407	10,038	12,083	10,889	11,865	13,684	11,493	12,579	11,976	12,147
Total Estimated Volume	256,471	244,172	247,655	271,924	194,823	197,539	210,792	253,748	228,674	249,167	287,359	241,350	264,165	251,497	255,084
Total Estimated Charges (\$0.45 DB Fee)	\$115,412	\$109,877	\$111,445	\$122,366	\$87,670	\$88,892	\$94,856	\$114,187	\$102,903	\$112,125	\$129,311	\$108,607	\$118,874	\$113,174	\$114,788

Total Estimated Volume Oct 2014 - Dec 2015	3,654,420
Total Estimated Charges Oct 2014 - Dec 2015	\$1,644,489



August 15, 2014

*via email only*

Ms. Diane Alexander  
DTMB Agency Services  
supporting DIFS Ottawa  
Building – 3rd Floor

**RE: Contract extension for Deferred Presentment Program**

Dear Ms. Alexander –

Thank you for your email outlining the opportunity to extend our current contract for on-going support of the Deferred Presentment Program. Accordingly, we are pleased to agree with extending the contract for an additional 6 months at the current terms.

Please find attached our monthly estimated volumes and charges for October 2014 through December 2015 per your request (PDF and Excel formats).

We appreciate the opportunity to support this important initiative for the Department of Insurance and Financial Services. We will continue to work toward meeting or exceeding your expectations for delivery of quality support.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas H Reinheimer".

Thomas H  
Reinheimer  
Chief  
Executive  
Officer 904-  
421-7239  
office  
Thomas.Reinheimer@Veritecs.com

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

June 11, 2013

**CHANGE NOTICE NO. 6**  
 to  
**CONTRACT NO. 071B6200311**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Veritec Solutions, LLC 9428 Baymeadows Road, Suite 600 Jacksonville, FL 32256	Thomas Reinheimer	Thomas.reinheimer@veritec.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(904) 421-7230	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB-IT	Sara Williams		
BUYER	DTMB	Joe Kelly	517-373-3993	Kellyj11@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 6, 2006	June 5, 2009		June 5, 2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
1B-201.1.1 -N/A	N/A	1B-201.1.2 -N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2 years	June 5, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$2,700,000.00		\$10,800,000.00		
Effective May 7, 2013, this contract is hereby extended for 2 years. The new contract end date is June 5, 2015. Contract is also increased by \$2,700,000.00. Please note that the buyer has been changed to Joe Kelly. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on May 7, 2013.				

**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET**  
**PROUREMENT & REAL ESTATE SERVICES ADMINISTRATION**  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

February 3, 2011

**CHANGE NOTICE NO. 5**  
**TO**  
**CONTRACT NO. 071B6200311**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: <a href="mailto:Thomas.reinheimer@veritec.com">Thomas.reinheimer@veritec.com</a></i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June 5, 2013</b>	
TERMS <b>1B-201.1.1 N/A</b>	SHIPMENT <b>1B-201.1.2 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 \$2,300,000.00 and EXTENDED to June 5, 2013. The new contract value is \$8,100,000.00.**

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

**AUTHORITY/REASON(S):**

**Per vendor and agency agreement, DTMB approval, and approval from Ad Board dated February 1, 2010.**

**INCREASE: \$2,300,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$8,100,000.00**

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

September 30, 2010

CHANGE NOTICE NO. 4  
 TO  
 CONTRACT NO. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: <a href="mailto:Thomas.reinheimer@veritec.com">Thomas.reinheimer@veritec.com</a></i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June 5, 2011</b>	
TERMS <b>1B-201.1.3 N/A</b>	SHIPMENT <b>1B-201.1.4 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 \$1,000,000.00. The new contract value is \$5,800,000.00. All other terms, conditions, pricing and specifications remain the same.

**AUTHORITY/REASON(S):**

Per vendor and agency agreement, DTMB approval, and approval from Ad Board dated September 30, 2010.

**INCREASE: \$1,000,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$5,800,000.00**

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

March 18, 2010

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B6200311**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <a href="mailto:Thomas.reinheimer@veritec.com">Thomas.reinheimer@veritec.com</a>		TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>		
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June 5, 2011</b>		
TERMS <b>1B-201.1.5 N/A</b>	SHIPMENT <b>1B-201.1.6 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 \$700,000.00. The new contract value is \$4,800,000.00. All other terms, conditions, pricing and specifications remain the same.**

**AUTHORITY/REASON(S):**

**Per vendor and agency agreement, DMB approval, and approval from Ad Board dated March 16, 2010.**

**INCREASE: \$700,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$4,800,000.00**

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

October 1, 2008

CHANGE NOTICE NO. 2  
 TO  
 CONTRACT NO. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: Thomas.reinheimer@veritec.com</i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June 5, 2011</b>	
TERMS <b>1B-201.1.7 N/A</b>	SHIPMENT <b>1B-201.1.8 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 \$1,600,000.00 and **EXTENDED** to June 5, 2011. All other terms and conditions remain the same.

**AUTHORITY/REASON(S):**

Per vendor and agency agreement and DMB approval and the Ad Board on 9/30/2008.

**INCREASE: \$1,600,000.00**

**Total Revised Estimated Contract Value: \$4,100,000.00**

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

November 14, 2007

CHANGE NOTICE NO. 1  
 TO  
 CONTRACT NO. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: Thomas.reinheimer@veritec.com</i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June 5, 2009</b>	
TERMS <b>1B-201.1.9 N/A</b>	SHIPMENT <b>1B-201.1.10 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 \$900,000.00. All other terms and conditions remain the same.**

**AUTHORITY/REASON(S):**

**Per vendor and agency agreement and DMB approval.**

**INCREASE: \$900,000.00**

**Total Revised Estimated Contract Value: \$2,500,000.00**

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 7, 2006

NOTICE  
 OF  
 CONTRACT NO. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: Thomas.reinheimer@veritec.com</i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June5, 2009</b>	
TERMS <b>1B-201.1.11 N/A</b>	SHIPMENT <b>1B-201.1.12 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:	

**Estimated Contract Value: \$1,600,000.00**

**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. 071B6200311  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR <b>Veritec Solutions, LLC</b> <b>9428 Baymeadows Rd, Suite 600</b> <b>Jacksonville, FL 32256</b>  <i>Email: Thomas.reinheimer@veritec.com</i>	TELEPHONE Thomas Reinheimer <b>904-421-7230</b> VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 241-0239 <b>Jacque Kuch</b>
Contract Compliance Inspector: Sara Williams <b>DLEG/OFIS Web-based Database System to Track Deferred Presentment Transactions</b>	
CONTRACT PERIOD: From: <b>June 6, 2006</b> To: <b>June5, 2009</b>	
TERMS <b>1B-201.1.13 N/A</b>	SHIPMENT <b>1B-201.1.14 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: <b>The terms and conditions of this Contract are those of <a href="#">ITB #07116200087</a>, this Contract Agreement and the vendor's quote dated February 8, 2006. 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: \$1,600,000.00</b>	

---

<b>FOR THE VENDOR:</b>  _____ Firm Name  _____ Authorized Agent Signature  _____ Authorized Agent (Print or Type)  _____ Date	<b>FOR THE STATE:</b>  _____ Signature <b>Jacque Kuch, Buyer</b> _____ Name/Title <b>IT Division</b> _____ Division  _____ Date
-------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------



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

Contract – 071B6200311  
MDIT/DLEG-OFIS

WEB-BASED DATABASE SYSTEM TO TRACK DEFERRED PRESENTMENT TRANSACTIONS

Buyer Name: [Jacque Kuch](#)  
Telephone Number: [517-241-0239](#)  
E-Mail Address: [kuchj@michigan.gov](mailto:kuchj@michigan.gov)



**1B-201.1.15 Table of Contents**  
**1B-201.1.16**

- Table of Contents..... 2
- Article 1 – Statement of Work (SOW) ..... 6
- 01.0 Project Identification..... 6
  - 1.001 PROJECT REQUEST ..... 6
  - 1.002 BACKGROUND ..... 6
- 11.1 Scope of Work and Deliverables ..... 7
  - 1.101 IN SCOPE ..... 7
  - 1.102 OUT OF SCOPE ..... 10
  - 1.103 ENVIRONMENT..... 10
  - 1.104 WORK AND DELIVERABLE ..... 12
- 21.2 Roles and Responsibilities ..... 16
  - 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES..... 16
  - 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES ..... 17
  - 1.203 OTHER ROLES AND RESPONSIBILITIES..... 17
- 31.3 Project Plan..... 17
  - 1.301 PROJECT PLAN MANAGEMENT ..... 17
  - 1.302 REPORTS..... 18
- 41.4 Project Management ..... 18
  - 1.401 ISSUE MANAGEMENT..... 18
  - 1.402 RISK MANAGEMENT ..... 18
  - 1.403 CHANGE MANAGEMENT ..... 19
  - 1.404 CONFIGURATION MANAGEMENT ..... 19
- 51.5 Acceptance ..... 19
  - 1.501 CRITERIA ..... 19
  - 1.502 FINAL ACCEPTANCE ..... 20
- 61.6 Compensation and Payment..... 20
  - 1.601 COMPENSATION AND PAYMENT ..... 20
- 71.7 Additional Mandatory Terms and Conditions Specific to this SOW ..... 21
  - 1.701 ADDITIONAL MANDATORY TERMS AND CONDITIONS SPECIFIC TO THIS SOW..... 21
- ARTICLE 1B – EVALUATION INFORMATION ..... 23
- REQUIRED VENDOR INFORMATION ..... 23
- Standard Requirements (Article 1, Attachment B) ..... 23
- ARTICLE 1, ATTACHMENT C..... 30
- Article 1, Attachment D ..... 32
- Article 1, Attachment E ..... 33
- 81.1.1 Methodology and Capability Overview ..... 33
- 91.1.2 Project Approach and Work Phases ..... 36
- 101.1.3 Project Timeline ..... 37
- 111.1.4 Major Milestones and Deliverables ..... 37
- 121.1.5 Project Communication Plan..... 38
- 131.1.6 Project Change Management ..... 39
- 141.1.7 Project Location and Resources ..... 39
- Article 2 – General Terms and Conditions ..... 40
- 152.010 Contract Structure and Administration ..... 40
  - 2.011 Definitions ..... 40
  - 2.012 Attachments and Exhibits..... 41
  - 2.013 Statements of Work..... 41
  - 2.014 Issuing Office ..... 41
  - 2.015 Contract Compliance Inspector..... 41
  - 2.016 Project Manager..... 42
- 162.020 Contract Objectives/Scope/Background ..... 42
  - 2.021 Background..... 42
  - 2.022 Purpose..... 42



- 2.023 Objectives and Scope ..... 42
- 2.024 Interpretation ..... 42
- 2.025 Form, Function and Utility ..... 42
- 172.030 Legal Effect and Term ..... 42
- 2.031 Legal Effect ..... 42
- 2.032 Contract Term ..... 43
- 2.033 Renewal(s) ..... 43
- 182.040 Contractor Personnel ..... 43
- 2.041 Contractor Personnel ..... 43
- 2.042 Contractor Identification ..... 45
- 2.043 Cooperation with Third Parties ..... 45
- 2.044 Subcontracting by Contractor ..... 45
- 2.045 Contractor Responsibility for Personnel ..... 46
- 192.050 State Standards ..... 46
- 2.051 Existing Technology Standards ..... 46
- 2.052 PM Methodology Standards ..... 46
- 2.53 Adherence to Portal Technology Tools ..... 46
- 2.054 Acceptable Use Policy ..... 46
- 202.060 Deliverables ..... 47
- 2.061 Ordering ..... 47
- 2.062 Software ..... 47
- 2.063 Hardware ..... 47
- 2.064 Equipment to be New and Prohibited Products ..... 47
- 212.070 Performance ..... 47
- 2.071 Performance, In General ..... 47
- 2.072 Time of Performance ..... 47
- 2.073 Liquidated Damages ..... 47
- 2.074 Bankruptcy ..... 47
- 2.075 Time is of the Essence ..... 48
- 222.080 Delivery and Acceptance of Deliverables ..... 48
- 2.081 Delivery of Deliverables ..... 48
- 2.082 Contractor System Testing ..... 49
- 2.083 Approval of Deliverables, In General ..... 49
- 2.084 Process for Approval of Written Deliverables ..... 49
- 2.085 Process for Approval of Custom Software Deliverables ..... 49
- 2.086 Final Acceptance ..... 49
- 232.090 Financial ..... 49
- 2.091 Pricing ..... 49
- 2.092 Invoicing and Payment Procedures and Terms ..... 49
- 2.093 State Funding Obligation ..... 50
- 2.94 Holdback ..... 50
- 2.095 Electronic Payment Availability ..... 51
- 242.100 Contract Management ..... 51
- 2.101 Contract Management Responsibility ..... 51
- 2.102 Problem and Contract Management Procedures ..... 51
- 2.104 System Changes ..... 52
- 2.105 Reserved ..... 52
- 2.106 Change Requests ..... 52
- 252.110 Records and Inspections ..... 53
- 2.111a Records and Inspections ..... 53
- 2.112 Errors ..... 54
- 262.120 State Responsibilities ..... 54
- 2.121 State Performance Obligations ..... 54
- 272.130 Security ..... 55
- 2.131 Background Checks ..... 55



- 282.140 Reserved..... 55
- 292.150 Confidentiality..... 55
  - 2.151 Freedom of Information..... 55
  - 2.152 Confidentiality..... 55
  - 2.153 Protection of Confidential Information ..... 55
  - 2.154 Exclusions ..... 56
  - 2.155 No Implied Rights..... 56
  - 2.156 Remedies ..... 56
  - 2.157 Security Breach Notification ..... 56
  - 2.158 Survival ..... 56
  - 2.159 Destruction or Turnover of Confidential Information ..... 56
- 302.160 Proprietary Rights ..... 56
  - 2.163 Rights in Data..... 57
  - 2.164 Ownership of Materials ..... 57
  - 2.165 Standard Software ..... 57
  - 2.166 Pre-existing Materials for Custom Software Deliverables ..... 57
  - 2.167 General Skills ..... 58
- 312.170 Warranties And Representations ..... 58
  - 2.171 Warranties and Representations..... 58
    - 2.175a DISCLAIMER ..... 60
    - 2.175b Standard Warranties ..... 60
  - 2.176 Consequences For Breach ..... 61
- 322.180 Insurance ..... 61
  - 2.181 Liability Insurance ..... 61
- 332.190 Indemnification..... 63
  - 2.191 Indemnification..... 63
  - 2.192 Continuation of Indemnification Obligations..... 64
  - 2.193 Indemnification Procedures..... 64
- 342.200 Limits of Liability and Excusable Failure ..... 65
  - 2.201 Limits of Liability..... 65
  - 2.202 Excusable Failure..... 65
  - 2.203 Disaster Recovery..... 66
- 352.210 Termination/Cancellation by the State ..... 66
  - 2.211 Termination for Cause..... 66
  - 2.212 Termination for Convenience ..... 67
  - 2.213 Non-Appropriation ..... 67
  - 2.214 Criminal Conviction ..... 67
  - 2.216 Rights and Obligations Upon Termination ..... 68
  - 2.217 Reservation of Rights..... 68
  - 2.218 Contractor Transition Responsibilities..... 68
  - 2.219 State Transition Responsibilities ..... 69
- 362.220 Termination by Contractor..... 69
  - 2.221 Termination by Contractor..... 69
- 372.230 Stop Work ..... 69
  - 2.231 Stop Work Orders ..... 69
  - 2.232 Cancellation or Expiration of Stop Work Order ..... 70
  - 2.233 Allowance of Contractor Costs..... 70
- 382.240 Reserved..... 70
- 392.250 Dispute Resolution ..... 70
  - 2.251 In General ..... 70
  - 2.252 Informal Dispute Resolution ..... 70
  - 2.253 Injunctive Relief..... 71
  - 2.254 Continued Performance ..... 71
- 402.260 Federal and State Contract Requirements..... 71
  - 2.261 Nondiscrimination..... 71



2.262 Unfair Labor Practices..... 71

2.263 Workplace Safety and Discriminatory Harassment..... 71

412.270 Litigation..... 71

2.271 Disclosure of Litigation ..... 72

2.272 Governing Law ..... 72

2.273 Compliance with Laws ..... 72

2.274 Jurisdiction ..... 72

422.280 Environmental Provision ..... 73

2.281 Environmental Provision ..... 73

432.290 General ..... 73

2.291 Amendments ..... 73

2.292 Assignment ..... 73

2.293 Entire Contract; Order of Precedence..... 74

2.294 Headings..... 74

2.295 Relationship of the Parties (Independent Contractor Relationship) ..... 74

2.296 Notices ..... 74

2.297 Media Releases and Contract Distribution..... 75

2.298 Reformation and Severability ..... 75

2.299 Consents and Approvals ..... 75

2.300 No Waiver of Default ..... 75

2.301 Survival ..... 75

2.302 Covenant of Good Faith ..... 75

2.303 Permits ..... 75

2.304 Website Incorporation ..... 76

2.305 Taxes ..... 76

2.306 Prevailing Wage for Michigan Employees..... 76

2.307 Call Center Disclosure ..... 76

2.308 Future Bidding Preclusion ..... 76

442.310 Reserved..... 76

452.320 Extended Purchasing..... 76

2.321 MiDEAL..... 76

462.330 Federal Grant Requirements..... 77

2.331 Federal Grant Requirements\..... 77

Exhibit A..... 78

Exhibit B..... 79

Exhibit C..... 95

Exhibit D..... 98

**1B-201.1.17 Article 1 – Statement of Work (SOW)****1.0 Project Identification****1.001 PROJECT REQUEST**

The State of Michigan (State), through the Michigan Department of Labor and Economic Growth (DLEG) Office of Financial and Insurance Services (OFIS), and Michigan Department of Information Technology (MDIT), with assistance of the Michigan Department of Management & Budget (MDMB), have issued this Request for Proposal (RFP) for the purpose of obtaining proposals from qualified firms for a web-based database system to track deferred presentment transactions by Deferred Presentment Providers (DPP) which meets the requirements of PA 244 of 2005.

**1.002 BACKGROUND**

On Nov 28, 2005, Governor Jennifer Granholm signed into law P.A. 244 of 2005, the Deferred Presentment Services Act (Act) (Appendix A). Deferred presentment services are more commonly known as payday lending. This new law requires the Office of Financial and Insurance Services (OFIS) to implement a statewide common database by December 31, 2006 and allows OFIS to contract with a third party provider to provide and operate the database. All deferred presentment providers (DPPs) must use the database to conduct business and to verify the balance and status of deferred presentment service transactions for compliance with the requirements of the Act.

It is very important to have the statewide, common database operational within thirty (30) days of the new business rules and statutory consumer protections that go into effect in Michigan (June 1, 2006) rather than waiting until the absolute last date allowed in the statute (December 31, 2006) for a number of reasons.

First, without an operational statewide, common database, there will be no effective means of enforcing the new business rules from licensee to licensee because each licensee is only obligated to check its in-house system for determining customer eligibility. There is no ability to objectively determine whether a customer has open transactions through other licensees making them ineligible for further transactions under the law.

Second, eligibility for, and notification of eligibility for, the newly established repayment plan is an important item of consumer protection in the new statute. Customers are only eligible for the repayment plan after 8 payday loan transactions have been entered into in any 12-month period. Without the statewide, common database, consumers will in most circumstances never be notified of their eligibility for this protection.

Finally, if the database is operational within thirty (30) days of June 1, 2006, there will not be a need to enter several months worth of historical transactional data into the database, as there would be if there is a delay between effective date and database functionality.

The Act declares the personal identifying customer information collected in the database to be confidential, not a matter of public record, not subject to discovery, subpoena, or other compulsory process except in a civil action allowed under section 53, and not to be disclosed to anyone but OFIS. OFIS is allowed to access the database only for the purposes of investigation, examination or enforcement under the act and an employee of OFIS who accesses the database in violation of the act is guilty of a misdemeanor.

OFIS seeks to contract with a single provider to provide and maintain a third-party common database with real-time access through the Internet for DPPs. The Act requires the database to be operational no later than December 31, 2006.

The third –party vendor may charge the DPPs a verification fee for access to the database, in amounts approved by OFIS for the actual costs of entering, accessing and verifying data in the database. OFIS will assume no responsibility for reimbursing the Contractor, its representatives, or financial institution for DPP failure to pay.



**Statutory Conditions for Deferred Presentment Transactions**

The following summarizes additional provisions of the statute. One transaction includes all steps in the customer loan process, from opening to closing. A DPP means a person who engages in a deferred presentment transaction and is licensed with OFIS.

- 1) A DPP may enter into 1 deferred presentment service transaction with a customer for any amount up to \$600. (P.A. 244 of 2005, Section 33(1))
- 2) A DPP may not enter into a deferred presentment service transaction with a customer if the customer has an open deferred presentment service transaction with that DPP or has more than 1 open deferred presentment service transaction with any other DPP. (P.A. 244 of 2005, Section 33(2))
- 3) A DPP may charge a customer a service fee for each deferred presentment service transaction in an amount that does not exceed the aggregate of the following, as applicable:

15% of the first \$100 of the transaction
14% of the second \$100 of the transaction
13% of the third \$100 of the transaction
12 % of the fourth \$100 of the transaction
11% of the fifth \$100 of the transaction
11% of the sixth \$100 of the transaction
The amount of any database verification fee approved by OFIS and charged by the database provider for the actual costs of entering, accessing and verifying data in the database

(P.A. 244 of 2005 Sections 33(1) and 34(5))

*1.1 Scope of Work and Deliverables*

**1.101 IN SCOPE**

The Contractor will provide the following services for the complete and successful implementation of a database meeting the requirements of PA 244 of 2005 to include, at a minimum:

1. Identification of business requirements in partnership with OFIS and MDIT
2. Verification and validation of business requirements
3. Development, hosting, management, and availability of the deferred presentment database;
4. Thirty (30) day pilot period to verify compliance with statutory requirements
5. Notification and training of DPPs regarding the requirements of the system;
6. Customer service function and technical support;
7. Revenue collection process; and
8. Regulatory reporting system.
9. Training documentation to include user manuals and technical manuals
10. Help Desk and Technical support

Contractor’s solution, herein referred to as the Michigan Deferred Presentment Program (the “Michigan Solution”), addresses all of the business and legislative requirements of the Deferred Presentment Service Transactions Act, PA 244 of 2005 (the “Act”). The Michigan Solution will enable Deferred Presentment



Providers (“DPPs”) to maintain compliance with the Act. The Michigan Solution meets or exceeds requirements to help provide a better environment for consumers of these services, improve the operating environment for DPPs, and facilitate the Michigan Department of Labor and Economic Growth Office of Financial and Insurance Services (the “Department”) ability to regulate this industry. Figure 1 - Business Solution Overview below illustrates the major components and overall business architecture of the Michigan Solution.

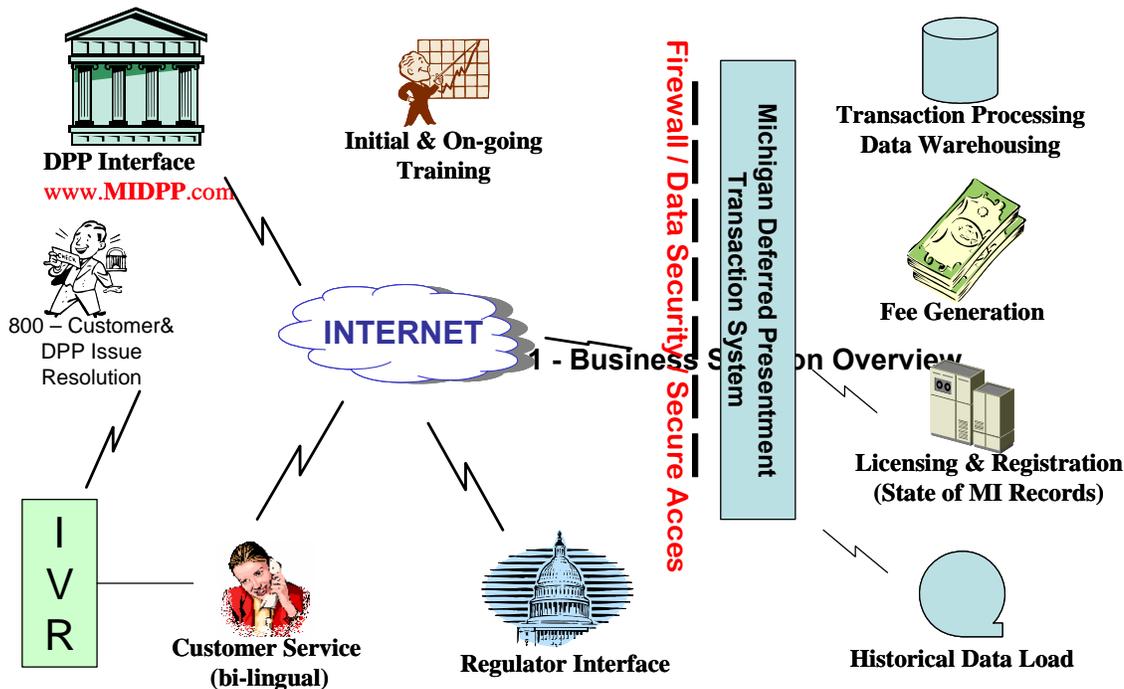


Figure 2 - Business Solution Overview

Each of the components illustrated in Figure 1 – Business Solution Overview are summarized below.

The major components of the Michigan Solution include:

- ❑ **DPP Interface ([www.MIDPP.com](http://www.MIDPP.com))**  
 The DPP Interface component of this solution is based on knowledge acquired through processing of over 12 million payday loan transactions in the States of Alabama, Florida, Illinois, Indiana and Oklahoma. The DPP Interface enables DPPs to utilize the system via two (2) primary methods:
  - A web-browser application that is user-friendly, fast, has proven capability, and is familiar to many firms that operate as licensees in Michigan (e.g., those with current operations in the States of Alabama, Florida, Illinois, Indiana or Oklahoma). Contactor will provide the names of these firms upon request of the Department. Contactor has reserved the URL of [www.MIDPP.com](http://www.MIDPP.com) for this site.
  - An automated interface that enables direct integration of the Michigan Solution with DPPs existing point-of-sale systems using a best-practice industry standard communication protocol. Note that Veritec currently interfaces with most of the leading software systems used for payday loan transactions. Veritec will provide the names of these systems and /or software vendors upon request of OFIS
- ❑ **Customer Service Function (Call Center)**  
 The Call Center will ensure quality of service delivery for consumers and DPPs by providing ready bi-



lingual (i.e. English and Spanish) access to information, education, and issue resolution. Customer Service and Call Center policies and procedures developed and currently in use for the Florida Deferred Presentment Program, the Illinois Payday Lending Program and the Oklahoma Deferred Deposit Program will be used as the starting point for development of policies and procedures for the State of Michigan. Contractor will provide a Call Center with the ability to handle peak volumes of calls during unusual circumstances, such as when DPPs internal systems are down and they are unable to access the consumer reporting database.

- **Technical Support and Help Desk**  
 Contractor will provide a highly qualified Technical Support and Help Desk organization that will respond within the required service level to address any issues. The Technical support organization will ensure that the Michigan Solution application adapts to the business environment and that required software upgrades are seamlessly deployed.  
 Contractor will provide personnel in the Technical Support and Help Desk organization who will monitor the systems environment and provide several levels of support as required to maintain a secure and reliable processing environment.
- **Interactive Voice Response Unit (“IVR”)**  
 Contractor will provide an Interactive Voice Response Unit available 24 x 7 as part of the Call Center infrastructure. The IVR system will enable DPPs and Customers to access information and conduct business, as approved by the Department. Contractor will provide training to DPPs including an “IVR Cheat Sheet” that provides DPP store personnel the required information to quickly perform common functions on the IVR without waiting on voice prompts. The IVR will allow a caller to transfer to a live operator in a timely manner as specified in the agreed upon Service Level Agreement. Refer to the Service Level Agreement section of this document.
- **Management Reporting System (Regulator Interface)**  
 Contractor will provide the Regulator Interface to allow OFIS to access the system for required administration and enforcement of the Act. This includes reporting for licensee examinations, financial management, regulatory reporting, and program monitoring.
- **Historical Data Load**  
 Historical data from all licensed DPPs in the State may be required for upload to the Database based on requirements of the Act (e.g., any outstanding transactions for a consumer, and transactions that impact the “12-month look back” and consumer “waiting period”).
- **Firewall / Data Security / Secure Access**  
 Contractor will provide a highly secured environment using the highest levels of information and financial transaction security protocols, encryption, and operating processes ensure the integrity and validity of the database, secure the transfer of funds; and ensure the confidentiality of information.  
 Contractor will limit access to the database to only those activities that are required for each user type (e.g. DPP, Department, Veritec personnel, etc.).  
 Contractor will meet or exceed the applicable compliance provisions of the social security number privacy act, 2004 PA 452, MCL 445.81 to 445.87 (P.A. 244 of 2005, Section 22(4)(b) and the identify theft protection act, 2004 PA 452, MCL 445.61 to 445.77 (P.A. 244 of 2005, Section 22(4)(c)).
- **Revenue Collection Process (Fee Generation)**  
 Contractor will provide an electronic “paperless” billing system that provides on-line access to invoices with transaction-level detail and allows the user to see the status of outstanding invoices. The system must also allow for paper-based processing, if required.
- **Interface to the State of Michigan Licensing Records**  
 Contractor will develop an interface to State of Michigan DPP Licensing Records according to agreed upon specifications. The Contractor will provide standards for this interface as established in other States that the Contractor supports. The primary function of this interface will be to ensure that only authorized DPPs have appropriate access to the system (e.g. licensed DPPs in good standing have full access, others may have restricted access based on their licensing status).



Training and Communication

Contractor will provide initial training in locations across the State using a “train-the-trainer” approach as required. Contractor will provide on-going training via a proven on-line interactive training process that is currently used to support the programs in other States. Special arrangements for training will be available when warranted.

Training programs and materials already developed and in use for the programs in Alabama, Florida, Illinois, Indiana and Oklahoma will be used as the starting point for development of the training program for the State of Michigan.

Contractor will provide a highly reliable Michigan Solution environment to provide assurance that DPPs will be able to transact business without interruptions due to system unavailability or system error. This will minimize the risk of non-compliant transactions statewide. This includes procedures for DPP business operations during times of system unavailability.

Contractor will maintained a 24 x 7 system availability of at least 99% including scheduled maintenance periods

Contractor will provide a proven infrastructure of an existing infrastructure for functions such as quality assurance management, payment processing, mail operations and production, accounting and audit.

### 1.102 OUT OF SCOPE

- Purchase of hardware and peripherals is not within the scope of this Contract.
- Installation of hardware for the State is not within the scope of this Contract.

### 1.103 ENVIRONMENT

Information regarding the State’s information technology architecture and standards may be found at: <http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>.

The current technology in use by MDIT for hosting is described below:

- Windows 2000 Server SP4
- Internet Information Services 5.0
- SQL Server 2000 Standard Edition SP3
- SAN technology for data storage

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

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

All external facing web sites produced and maintained by and for the State of Michigan for the purpose of conducting official state business over the World Wide Web or Internet must comply with the State of Michigan Look and Standards (<http://www.michigan.gov/somlookandfeelstandards>) as well as complying with Section 508 of the Rehabilitation Act policies and conforming with the World Wide Web Consortium (W3C) Level "A" Priority 1 checkpoints (<http://www.w3.org/TR/WCAG10/full-checklist.html>). To ensure that all external facing web sites comply with the State of Michigan Look and Standards as well as meeting the ADA requirements set by the state, all external facing web sites must be reviewed and approved by eMichigan Web Development (EWD).

The Contractor will address all of the technical and related requirements of the ITB and the Act. The figure below – Technical Solution Overview illustrates the overall technical architecture of the Michigan solution.

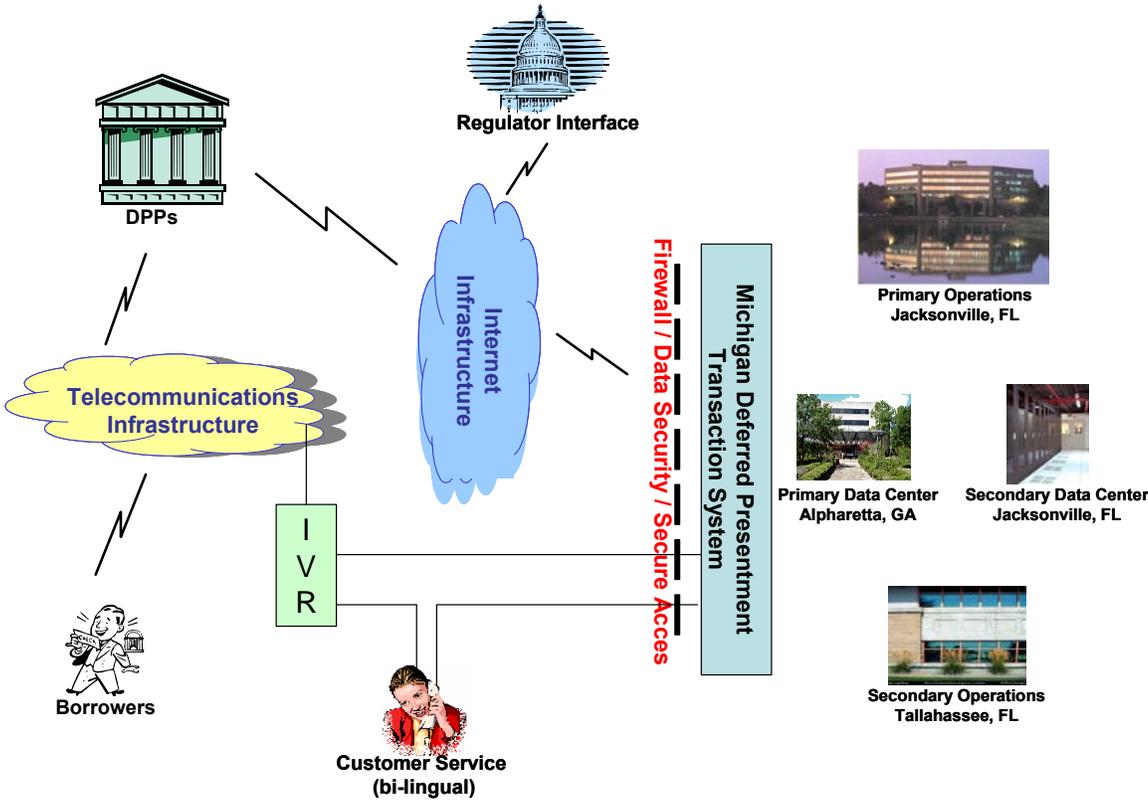


Figure 3 - Technical Solution Overview

The solution will consist of the following major components:

- ❑ The Michigan Deferred Presentment Transaction System application including:
  - Michigan Deferred Presentment Transaction System centralized database.
  - Browser-based application system.
  - Automated interface for integration with DPP point-of-sale application systems.
  - Application interfaces.
  - Interactive training.
- ❑ Operations, hardware and network infrastructure (environment) including:
  - Primary and secondary data centers including infrastructure redundancy.
  - Primary and secondary operations centers.
  - Redundant Telecommunications and Interactive Voice Response Unit (IVR) Infrastructure.
  - Dedicated web and application servers.
  - Data Back-up and Retention.
- ❑ Information Safeguarding and Data Security.
- ❑ Business Continuity Processes including:
  - Disaster planning procedures.
  - Business continuity plan.



The Contractor will meet or exceeds all requirements for this project including those addressing:

- High availability.
- Responsiveness.
- Scalability (e.g., will grow as required).
- Adaptability (e.g., changes in statute or rule).
- Ease of use (user-friendliness) with minimal interruption to DPP business processes.
- Productivity.
- Functionality.
- Information Security.

**1.104 WORK AND DELIVERABLE**

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

- The State will provide timely access to required resources on a minimal basis to assist with issue resolution and deliverable review during the implementation process.
- The State will designate up to three (3) people to be trained on the Michigan Solution. The Department will not be involved in initial or on-going training of the DPPs.
- The State will complete timely review and sign-off of agreed upon project deliverables. Sign-off will not be unreasonably withheld.
- The State will complete timely review and sign-off of communications, training materials, etc. prior to distribution.
- The State will be responsible for initial notification to licensees regarding the use of the statewide database and expected deadline for compliance.
- The State will designate one of their staff to act as the system administrator responsible for user IDs and passwords of State personnel. The State will assume responsibility for the use of their user IDs and passwords.
- The State will provide a timely listing, including updates, of licensee information (e.g. required licensee identification, status and other information as defined during Requirements Validation).
- DPPs will designate one of their employees to act as the system administrator responsible for user IDs and passwords of DPP personnel. DPPs will assume responsibility for the use of their user IDs and passwords.
- Customer Support and Help Desk functions will be able to accommodate English and Spanish language.
- Any complaints regarding misuse of the database by DPPs will be referred to a specified contact within the State. The State will designate a contact for this purpose that is readily available during business hours.
- The State will assume no responsibility for reimbursing the Contractor, its representatives, or financial institution for DPP failure to pay.
- DPPs are required to have the appropriate hardware (i.e. PC), software (i.e. Internet browser) and an Internet connection that meets minimum specifications for reasonable use of the database.
- DPP will be required to obtain an “authorization” number for each transaction before entering into a transaction in the event that the system is unavailable.



- Transaction fees will be collected via electronic means (e.g. ACH, EFT) from the DPP (automatic debit). A traditional billing system (e.g., invoicing and collection) and / or credit card payment may be offered under some circumstances and may carry an additional cost to the DPP.
- DPPs are required to enter all of their customer and transaction information required for compliance with the ACT to the Database as of the effective “go-live” date approved by the Department.

## Requirements

**A. State Standard Requirements** – the Contractor will comply with applicable general technical requirements for information technology projects attached as **(Article 1, Attachment B)**.

The Contractor’s Michigan Solution will comply with applicable general technical requirements for information technology projects as specified in Article 1, Attachment B of the ITB.

## B. Business Requirements and Functional Requirements–

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

### 1. System Access Controls

- a. The database will have restricted access and will be available only to OFIS, as provided in P.A. 244 of 2005, Section 22(10) and 22(11) of the Act and to those DPPs licensed by OFIS.
- b. Secure Socket layer or equivalent will be used to provide secure access to the database system. The overall security scheme, including all access protocols, is subject to approval of MDIT.

### 2. Database Requirements

- a. The database must be developed in Oracle, or a format that can be easily converted to an Oracle format as approved by MDIT, and will provide front-end data entry through Active Server Pages or equivalent utility.
- b. The database must provide real-time access, and be accessible 24x7 using a web (IE 4.0 or above) browser with no need to download additional software, to DPPs, and to OFIS only for the purposes set forth in P.A. 244 of 2005, Sections 22(10) and (11) of the Act. (P.A. 244 of 2005, Section 22(1) of the Act).
  - i. Contractor will maintain the database so that posted information is current and accurate.
    1. Information shall be updated daily.
    2. The Contractor, at its own expense, shall correct any non-conforming or inaccurate information posted at Vendor’s database within four (4) business hours after written notification by the State.
  - ii. The Contractor must update the database to meet the following requirements:
    1. When notification is received that a transaction is closed, the Vendor must immediately, but in no event after 11:59 p.m. on the day the State or Vendor receives notification, designate the transaction as closed in the database.
- c. The database must contain the following fields for a DPP customer in a format reasonably required by OFIS:
  - i. Name and address,
  - ii. social security number,
  - iii. driver license number or other state-issued identification number,
  - iv. customer’s check number,
  - v. the amount of the transaction,
  - vi. the date of the transaction,
  - vii. the maturity date of the transaction, and
  - viii. any other information reasonably required by OFIS or the Vendor.
- d. Fields for other information required by OFIS will include, at a minimum:
  - i. The name and license number of the DPP,



- ii. the amount of the service fee allowed under P.A. 244 of 2005, Section 33(1)(a) of the Act expressed as a dollar amount, and
- iii. the amount of the service fee allowed under P.A. 244 of 2005, Section 33(1)(a) of the Act expressed as an annual percentage rate. (P.A. 244 of 2005, Section 34(7)).
- e. All data collected in the database is the exclusive property of OFIS.
  - i. The Contractor retains no property interest whatsoever in the data collected to determine the eligibility of consumers under the provisions of the Deferred Presentment Service Transaction Act.
- f. Access will be granted only as permitted by P.A. 244 of 2005.
- g. All passwords must meet best practices for security and the Vendor must require them to be changed no later than every 35 days to maintain proper security.
  - i. MDIT will approve Contractor's security practices and conduct periodic informal audits, at a minimum of every six months, to ensure continued compliance with security practices.

### 3. Application Requirements

- a. General - The database application must do all of the following:
  - i. Include a process for responding to transaction verification requests due to technical difficulties occurring with the database that prevent a DPP from accessing the database through the internet (P.A. 244 of 2005, Section 22(4)(a)).
  - ii. Provide accurate and secure receipt, transmission and storage of customer data (P.A. 244 of 2005, Section 22(4)(d) including:
    - 1. Compliance with any applicable provisions of the social security number privacy act, 2004 PA 452, MCL 445.81 to 445.87 (P.A. 244 of 2005, Section 22(4)(b)).
    - 2. Compliance with any applicable provisions of the identify theft protection act, 2004 PA 452, MCL 445.61 to 445.77 (P.A. 244 of 2005, Section 22(4)(c)).
    - 3. Compliance with any additional personal privacy protection provisions determined applicable to the system.
  - iii. Automatically designate a deferred presentment service transaction as closed in the database 5 days after the transaction maturity date unless a DPP reports to the database provider before that time that the transaction remains open because of the customer's check is being returned to the licensee for insufficient funds, a closed account or a stop payment order or any other factors determined by OFIS. (P.A. 244 of 2005, Section 22(6)).
  - iv. Not allow a DPP to renew a deferred presentment service agreement (P.A. 244 of 2005, Section 35(1)).
  - v. When a DPP stops providing deferred presentment service transactions, automatically designate all open transactions with that DPP as closed in the database 60 days after the date the DPP stops offering deferred presentment service transactions unless the DPP reports to the database provider before the expiration of the 60-day period which of its transactions remain open and the specific reason each transaction remains open. (P.A. 244 of 2005, Section 22(7)).
  - vi. If a customer has entered into 8 deferred presentment service transactions in any 12-month period:
    - 1. Automatically notify the DPP when the DPP submits the required customer information to the database for that customer that the customer is entitled to a repayment plan under Section 35. AND
    - 2. Instruct the licensee to provide the customer with the notice set forth in Section 35(3), in a document separate from the deferred presentment transaction agreement and in at least 12-point type: (P.A. 244 of 2005, Section 35(3)).
  - vii. Reject deferred presentment service transactions for any customer that has entered into a repayment plan under Section 35 during the repayment plan term. (P.A. 244 of 2005, Section 35(1)(d)).
  - viii. During the term of a customer's repayment plan under P.A. 244 of 2005, Section 35, notify the DPP at the time the DPP submits the required customer information to the database for that customer, that the customer is presently in a repayment plan under P.A. 244 of 2005,



Section 35 with 1 or more other DPPs and the DPP may not enter into a deferred presentment transaction with that individual. (P.A. 244 of 2005, Section 35(4)).

- b. For Deferred Presentment Providers - The database business application must allow a DPP accessing the database to do all of the following:
  - i. Verify whether a customer has any open transactions with any DPP that have not been closed (P.A. 244 of 2005, Section 22(3)(a)).
  - ii. Access information necessary to ensure the DPP's compliance with any requirements imposed by the federal office of foreign asset control under federal law. (P.A. 244 of 2005, Section 22(3)(b)).
  - iii. Track and monitor the number of customers who notify the DPP of alleged violations of the Act, the number of times that the DPP agreed that a violation occurred, the number of times that a DPP did not agree that a violation occurred, the amount of restitution paid by the DPP and any other information that OFIS requires by rule. (P.A. 244 of 2005, Section 22(3)(c)).
  - iv. Receive a notification from the database that a customer has entered into his or her eighth (8<sup>th</sup>) deferred presentment service transaction with any DPP in any 12-month period and is eligible for repayment of that eighth transaction and each additional transaction in that 12-month period through an installment repayment plan as provided in P.A. 244 of 2005, Section 35(2) of the Act. (P.A. 244 of 2005, Section 22(3)(d)).
  - v. Receive responses to database inquiries that state only that the customer inquired about is eligible or ineligible for a new deferred presentment service transaction and describe the reason for that determination. (P.A. 244 of 2005, Section 22(8)).
  - vi. Allow a DPP to extend a deferred presentment service agreement only if the DPP does not charge a fee in connection with the extended transaction and does not create a balance owed above the amount owed on the original agreement (P.A. 244 of 2005, Section 35(1)).
  - vii. Allow a DPP to enter information regarding alleged violations and determinations under this section into the database as required by the commissioner. (P.A. 244 of 2005, Section 36(9)).
- c. For Customers of DPPs - The database application must:
  - i. Allow a person seeking a transaction with a DPP who is determined to be ineligible to make a direct inquiry to the database provider to request a more detailed explanation of a particular transaction that was the basis for the ineligibility determination.
  - ii. The database must not allow the DPP to make such an inquiry. (P.A. 244 of 2005, Section 22(8)).
- d. For the Commissioner of OFIS or authorized representative – the database application must:
  - i. Allow use to administer and enforce the act. (P.A. 244 of 2005, Section 34(4)).
  - ii. Track access to ensure access is provided only for investigation of, examination of, or enforcement action concerning the Vendor, DPP, customer or other person.
  - iii. Prevent access to a customer's social security number, driver license number or other state-issued identification number in the database unless access is authorized by P.A. 244 of 2005, Section 22(10).

**4. Record Retention and Disposal**

- a. The Contractor will comply with all rules promulgated by the State for record retention and disposal, specifically rules related to:
  - i. Data retained in the database only as required to ensure DPP compliance with the act;
  - ii. Customer data in the database be archived within 365 days after the customer transaction is closed unless needed for a pending enforcement action;
  - iii. Deletion of customer identification data when data is archived; and
  - iv. Deletion of data concerning a customer transaction 3 years after the transaction is closed or any enforcement action pending 3 years after the customer transaction is closed is completed, whichever is later. (P.A. 244 of 2005, Section 22(12)).
- b. The Contractor shall provide continued access to authorized agency employees for archived data (P.A. 244 of 2005, Section 22(13)).

**5. Contingency Plan**



- a. The Contractor will have data backup and disaster recovery processes and plans in place as part of their hosting services.
- b. The Contractor will have, and update no less than annually, a contingency plan should service (facilities, power, etc.) be interrupted by an event beyond the Vendor’s control.
- c. The Contractor will establish and maintain a process for responding to transaction verification requests when access to the database is prevented by technical difficulties.

**6. Additional Technical/Business Features**

- a. OFIS invites the Contractor to identify any additional technical or business features or capabilities which have not been stated in this section, to meet the following requirements to be used in evaluating proposals:
  - i. Ability to prevent fraud, abuse, and other unlawful activity associated with deferred presentment service transactions
  - ii. Ability to provide additional tools for administration and enforcement of the statute by OFIS

**7. DPP Training Requirements**

- a. The Contractor will provide information to DPPs regarding technical support as well as training and assistance regarding the deferred presentment requirements.
- b. The Contractor will be responsible for resolving disputes with DPPs, and questions and issues regarding declined transactions;
- c. The Contractor will divert any complaints regarding misuse of the database by DPPs to a specified contact person within OFIS.

1.2 Roles and Responsibilities

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

The Contractor will provide a project team, headed by a single point of contact Project Manager, which possesses the talent and expertise to satisfy the deliverables of the RFP.

The Contractor will provide resumes for staff, including subcontractors, who will be assigned to the Contract, indicating the responsibilities and qualifications of such personnel, and stating the amount of time each will be assigned to the project. The Contractor will commit that staff identified in its proposal will actually perform the assigned work and identify where these personnel will be physically located during the time they are engaged in the work. Any staff substitution must have the prior approval of the State.

The Contractor will provide, and update when changed, an organizational chart (**Article 1, Attachment D**) indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work.

The Contractor’s staff must be able to pass a security clearance check conducted by the Vendor. Vendor must present certifications evidencing satisfactory background checks and drug tests for all staff identified for assignment to this project. Vendor is responsible for any costs associated with ensuring their staff meets all requirements.

The Contractor will identify a Contract Administrator. The duties of the Contract Administrator shall include, but not be limited to: i) supporting the management of the Contract, ii) facilitating dispute resolution, and iii) advising the State of performance under the terms and conditions of the Contract. The State reserves the right to require a change in the current Contract Administrator if the assigned Contract Administrator is not, in the opinion of the State, adequately serving the needs of the State.

The Contract Administrator will be identified as a Key Personnel subject to the State’s interview and approval.

The Contractor 's project manager responsibilities include, at a minimum:

- Manage all defined Vendor responsibilities in this Scope of Services.



- Manage Vendor’s subcontractors (**Exhibit A**), if any
- Develop the project plan and schedule, and update as needed
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day project activities of the project team
- Assess and report project feedback and status
- Escalate project issues, project risks, and other concerns
- Review all project deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare project documents and materials
- Manage and report on the project’s budget

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

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

The designated agency Program Manager is Joyce Karr. Ms Karr will have the final sign off on all tasks and deliverables set forth in the Statement of Work/Contract.

The designated agency Project Manager is:  
 Mark Weigold  
 Department of Labor and Economic Growth/OFIS  
 Lansing, MI 48909  
 517-241-0734  
 E-mail: [mwweigo@michigan.gov](mailto:mwweigo@michigan.gov)

The designated agency Contract Contact is:  
 Karen Sage  
 Department of Labor and Economic Growth/OFIS  
 Lansing, MI 48909  
 517-241-6347  
 E-Mail: [kssage@michigan.gov](mailto:kssage@michigan.gov)

The designated DIT Contract contact is:  
 Sara Williams  
 Michigan Dept of Information Technology  
 Lansing, MI  
 517-636-0499

**1.203 OTHER ROLES AND RESPONSIBILITIES**

RESERVED

**1.3 Project Plan**

**1.301 PROJECT PLAN MANAGEMENT**

**A. Orientation Meeting**

- a. Contractor has already conducted an orientation meeting with the State related to the content and procedures of the prospective Contract.



**B. Performance Review Meetings**

- a. The State may require the Contractor to occasionally attend meetings weekly to review the Contractor’s performance under the Contract.
- b. The meetings will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Vendor.
- c. The State will bear no cost for the time and travel of the Contractor for attendance at the meeting.

**1.302 REPORTS**

Reporting formats must be submitted to the State’s Project Manager for approval within 20 business days after the effective date of the contract resulting from this RFP. Once both parties have agreed to the format of reporting, it will become the standard to follow for the duration of the contract.

Reporting will provide:

- 1. Business volume of DPP deferred presentment service transactions.

The Contractor’s reporting capability must:

- 1. Provide OFIS the ability to view on-line reports and ability to generate ad-hoc reports from the database.
- 2. Allow users to print, view and download reports.
- 3. Provide DPP’s on-line reports regarding transactions with their customers.

Contractor will submit brief written monthly summaries of progress which:

- a. Outline the work accomplished during the reporting period;
- b. Outline work to be accomplished during the subsequent reporting period;
- c. Identify problems, real or anticipated, which should be brought to the attention of the client agency’s project director; and
- d. Provide notice of any significant deviation from previously agreed-upon work plans.
- e. A copy of this report will be forwarded to the named buyer in Acquisition Services.

**1.4 Project Management**

**1.401 ISSUE MANAGEMENT**

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget.

The Contractor has already established an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State’s Program Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

**1.402 RISK MANAGEMENT**

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the Contract. Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy.



The Contractor will create a risk management plan. A risk management plan format will be submitted to the State for approval within twenty (20) business days after the effective date of the contract resulting from this RFP. Once both parties have agreed to the format of the plan, it will become the standard to follow for the duration of the contract. The plan must be monitored and updated bi-weekly, or as agreed upon. The risk management plan will be developed in accordance with the State's PMM methodology and the PMBOK® (Project Management Institute).

#### **1.403 CHANGE MANAGEMENT**

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

The following provides a detailed process to follow if a change to this Statement of Work (SOW) is required.

- a. A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change; the rationale for the change and the effect the change will have on the project.
- b. The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- c. The Contractor's Project Manager and the State will review the proposed change and approve it for further investigation or reject it. Contractor will specify any charges for such investigation. If the investigation is authorized, the State and the contractor will sign the PCR, which will constitute approval for the investigation charges. (The timing of signature by the State Project Manager will be in accordance with the State's Administrative Board or other applicable approval process). Contractor will invoice the State for any such charges. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of the Agreement.
- d. A written Change Authorization and/or Project Change Request (PCR) must be signed by both parties to authorize implementation of the investigated changes.
- e. Change Authorizations and/or Project Changes Request (PCR) will be processed through the state's Acquisition Services Office.
- f. 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.

If the Contractor provides products or services prior to the issuance of a Contract Change Notice by the DMB Office of Acquisition Services, they risk non-payment for the out-of-scope/pricing products and/or services.

#### **1.404 CONFIGURATION MANAGEMENT**

The Contractor must develop a detailed process for controlling the development of all deliverables. This would include controlling access to documents and version control.

### 1.5 Acceptance

#### **1.501 CRITERIA**

The following deliverables provided under this statement of work are the criteria for acceptance. The Contractor will provide the deliverables on dates agreed to in the approved project plan, or any authorized amendment of the project plan:

1. Requirements Analysis
2. Implementation Plan
3. Software Development
4. Uploading of Data
5. Training and Documentation
6. Testing and Implementation



The Contractor will provide a Deliverable Signoff form to the State’s Project Managers.

The State’s Project Managers will verify the completeness of the deliverables based on the contract requirements and associated approved documents.

Before the State determines the database is fully operational, the Contractor will operate a pilot program, as required in Section 22(1) of the Act, to test all the processes of the database for at least a thirty (30) day period. During the pilot period, the Contractor will make the pilot program available to all customers and DPPs.

**1.502 FINAL ACCEPTANCE**

Final Acceptance is when the project is completed and functions according to the requirements. Any intermediate acceptance of sub-deliverables does not complete the requirement of Final Acceptance. Final acceptance of deliverable is by OFIS Business Manager. The State’s Project Managers will verify the completeness of the project based on the contract requirements, service request(s) and associated approved documents.

The Contractor will deliver an end-to-end testing plan for the system.  
 Contractor must conduct an end-to-end testing of the system.  
 All errors found as a result of the testing must be corrected.  
 All deliverables listed in the Statement of Work will be delivered.  
 All end user testing listed in the Statement of Work will be completed.

*1.6 Compensation and Payment*

**1.601 COMPENSATION AND PAYMENT**

Contractor agrees to design and administer the deferred presentment database as required by PA 244 of 2005. The database will be completed no later than June 1, 2006.

The Contractor will be responsible for billing and collection from the Deferred Presentment Providers for the use of the Deferred Presentment Database. The Contractor shall transmit to the State all funds it has collected in accordance with the procedure specified. The State will not be responsible for paying the Contractor for any transaction recorded on the Deferred Presentment Database unless the State has received a remittance for that transaction.

Payment shall be made to the Contractor after both receipt of an invoice for services rendered and receipt by the State of funds received. The Contractor shall submit any invoices required pursuant to the ITB in detail sufficient for a proper pre-audit and post audit thereof. Invoices returned to the Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the State.

The State shall pay the Contractor the following amount per deferred presentment transaction made and recorded on the Deferred Presentment Database for each transaction for which payment is due by the State:

- \$0.45 per transaction during Contract year one
- \$0.45 per transaction during Contract year two
- \$0.45 per transaction during Contract year three

The State reserves the right to specify the verification fee, if any that the Contractor will be allowed to charge the Deferred Presentment Providers for the use of the Deferred Presentment Database, pursuant to MCL 487.2154(5)



## Payment

- a. Electronic Payment Availability  
Public Act 533 of 2004 requires that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website ([www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us)).
- b. All invoices should reflect actual work done as related to specific tasks. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the vendor after the proposed Contract Agreement has been signed and accepted by both the contractor and the Director of Acquisition Services, Department of Management & Budget. This activity will occur only upon the specific written direction from Acquisition Services. All payments will be based upon satisfactory performance of the vendor.

### 1.7 Additional Mandatory Terms and Conditions Specific to this SOW

#### 1.701 ADDITIONAL MANDATORY TERMS AND CONDITIONS SPECIFIC TO THIS SOW

##### A. Statutory Requirements:

1. If the Contractor, while providing database services, violates the provisions of Section 22 of the Act, the State shall terminate the Contract and the Contractor will be barred from becoming a party to any other state contracts. (Section 22(2)(e).
2. A person injured by a Contractor's violation of the act while providing database services may maintain a civil cause of action against the Contractor and may recover actual damages plus reasonable attorney fees. (Section 22(2)(f).

##### B. Modification to Meet New Requirements

1. During the Contract period, if changes occur in federal or state systems standards and they require modifications to hardware, software or components, such changes will be accepted through procedures outlined in Change Management (Section 1.403).
  - The Contractor will make minor or routine system and software modifications at no additional charge.
2. The Contractor will perform the following at no additional cost:
  - Apply Contractor-opted modifications to all previously installed systems at no cost to the State when a system is covered by an existing maintenance agreement.
  - Contractor will notify entities if 3rd Party software upgrades are required. The purchase of any upgrades of 3rd Party software will be the responsibility of the State.

##### C. Security and Confidentiality

1. Contractor will only use the data collected under the statute as prescribed in the statute and the Contract, and for no other purpose.
1. Any information regarding any person's transactional history is confidential, is not subject to public inspection, is not a public record subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to discovery, subpoena, or other compulsory process except in an action under section 53 of the Act, and will not be disclosed to any person other than the authorized OFIS representative. (P.A. 244 of 2005, Section 22(8)).
2. Contractor will comply with any applicable provisions of the social security number privacy act, 2004 PA 454, MCL 445.81 to 445.87.
3. Contractor will comply with any applicable provisions of the identity theft protection act, 2004 PA 452, MCL 445.61 to 445.77.
4. Contractor will provide secure receipt, transmission and storage of customer data.

**D. Services to be Provided**

1. The Contractor will provide services identified in Section 1.101 for the complete and successful implementation and operation of the database system providing the functionality required for the State's business operations.
2. The Contractor will operate the database pursuant to the provisions of PA 244 of 2005.
3. Project Plan - Within fifteen (15) working days of the award of the Contract, the Contractor will work with OFIS and MDIT to develop an agreed upon project plan of tasks and schedule. For purposes of preparing the plan, Contractors are to assume the system will be installed and in operation within 30 days of June 1, 2006. The project plan may include:
  - a. The Contractor's project organizational structure.
  - b. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
  - c. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
  - d. The time-phased plan, showing each event, task, and decision point in the work plan, as detailed **Article 1, Attachment E**.
  - e. The Contractor agrees that the approved project plan will become incorporated as part of the Contract and Scope of Services.
    - i. The project plan will serve as the State's measurement tool, outlining all tasks, their delivery dates, together with testing periods and implementation dates.
    - ii. Each of the agreed upon tasks will become a Deliverable subject to the liquidated damages; specifically:
      1. \$1,000 per calendar day for each calendar day beyond the agreed upon delivery date of an acceptable key deliverable.
      2. If a Key Deliverable Date is exceeded by more than thirty (30) calendar days from the date the Key Deliverable is originally due, then by written notice to the Contractor, the State may immediately terminate the right of Contractor to deliver the services and the State may obtain substitute services from another Contractor. In this event, the Contractor will be liable for fixed and agreed liquidated damages, in lieu of all other damages due to such delay, in the amount specified above for a maximum of sixty (60) calendar days from the original Delivery Date.

**E. Service Levels**

1. The Contractor will provide access to the database 24 hours per day, 365 days per year, except during periods of routine maintenance. Routine maintenance schedules and downtime procedures for notifying OFIS and DPPs of work stoppages are subject to approval by OFIS.
2. Customer service will be available during DPP regular business hours as determined by the Vendor upon implementation of the database with prior approval of OFIS.
3. The Contractor will provide 99% system availability excluding routine maintenance. (Application reliability/uptime, including all downtime, such as Internet connection to the hosting facility, server downtime, planned system maintenance and backups, and system upgrades).



**1B-201.1.18 ARTICLE 1B – EVALUATION INFORMATION**

**1B-201.1.19 REQUIRED VENDOR INFORMATION**

**Vendor Name and Address**

Name, address, principle place of business, and telephone number of legal entity with whom contract is to be written:

Name: Veritec Solutions, LLC  
Address: 9428 Baymeadows Road, Suite 600  
City, State, Zip: Jacksonville, FL 32256  
Phone: (904) 421-7100 (general)  
Web Page: www.Veritecs.com

**1B-101 Location Address**

Headquarters location:  
Address: 9428 Baymeadows Road, Suite 600  
City, State, Zip: Jacksonville, FL 32256

Secondary Operations location:  
Address: 325 John Knox Road, Suite 205  
City, State, Zip: Tallahassee, FL 32303

**1B-102 RFP Contact**

The name, title, address, email, phone and fax numbers for the Veritec RFP Contact is listed below. This contact person is authorized to expedite any proposed contract with the State.

<b>Name:</b>	<u>Thomas H Reinheimer, CEO</u>
<b>Address:</b>	<u>9428 Baymeadows Rd., Suite 600</u>
<b>City, State, Zip</b>	<u>Jacksonville, FL 32256</u>
<b>Phone:</b>	<u>(904) 421-7239</u>
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**1B-201.1.20 Application Development Team**

The Application Development team for the project will consist of a Team Leader, Web Analyst and Developers, and Database Architect and Developers. Each of these team members and their responsibilities is detailed in the matrix attached as **Exhibit B** at the end of this Contract

**1B-201.1.21 Standard Requirements (Article 1, Attachment B)**  
**GENERAL TECHNICAL REQUIREMENTS**

The system must provide the standard requirements listed below. Check the box adjacent to each requirement, indicating whether:

- Yes - the system meets the requirement
- No - the system does not meet the requirement
- Meets with Modifications



TECHNICAL REQUIREMENTS	YES	NO	MEETS WITH MODIFICATIONS
<b>System Architecture</b>			
The system places no limit on record size.	√		
The software is expandable and portable, with specific reference to the system capacity requirements presented in this RFP.	√		
The system is fully self-contained and capable of being operated by State staff with no dependency on Contractor services for its routine operation.			√ Veritec is responsible for system operations but may provide an option for the state to take over system operations as appropriate
The system is an open system, with no dependency on the use of specific models or models of equipment operating systems.	√		
The system is portable from one OS/RDBMS to another, i.e., from Unix to Windows 2000, or from one platform/OS to another, e.g., Sun Solaris to IBM AIX, etc.			√ System is MS Windows based. RDBMS is MS SQL 2000 / 2005 and can be migrated to other RDBMS systems such as Oracle.
The system keeps a log of each transaction which alters the database. Logs are date and time stamped to allow the system to reconstruct activity for any period.	√		
<b>2. Programming Language</b>			
a. The system's client applications are written in Oracle or a format that can easily be converted to an Oracle format programming language.			√ Client applications are in written Microsoft asp or asp.net standards. The client applications may communicate with an Oracle RDBMS if required.
<b>4. Hardware</b>			
i. Processing the volumes presented and any increases in volume that can be expected through the implementation of the proposed system.	√		
iii. Application installation, administration and support	√		
<b>5. RDBMS / Applications / Database Management</b>			
a. The system is available with State's standard relational database management system NOTE: Pursuant to section 1.103 of the ITB, the current technology in use by MDIT for hosting includes MS SQL Server 2003 SP3	√ See note		
b. Full-text indexing and a full-text database search feature is available to provide easy retrieval of records.	√		
<b>6. Security / Access Control</b>			
a. The system provides security at database, workstation, and individual operator levels.	√		



b. The system provides secure access control based upon unique user login, for types of record (e.g., fund, order) as well as by function performed upon the record (e.g., Display, Add, Edit, Delete.)	√		
c. The system checks each user's access privileges at login, and automatically disable or enables client functions (in real time) based upon the user's profile	√		
<b>8. Software Package Specifications</b>			
a. The software uses an industry standard relational database management system	√		
b. The software operates in a recognized industry standard operating environment.	√		
c. The software allows the State, from PC workstations, to access all necessary information to carry out its responsibilities pursuant to P.A. 244 of 2005..	√		
d. The software allows for the accurate and timely input and extraction of State data.	√		
e. The software allows for processing of all identified <b>State business requirements.</b>  NOTE: there is no section in the ITB that is labeled as State business requirements. However, this proposed solution will meet all state related requirements of the ITB.	√ See note		
f. The software provides identified data reporting capabilities.	√		
g. The software provides a Graphical User Interface (GUI) that is user-friendly and provides data, calculation, reporting, and communication capabilities to <b>State users.</b>	√		
h. The system is modular in design to accommodate phased implementation and future expansion.	√		
i. The modularity allows the capabilities of the core systems to function without the entire system complement.	√		
j. Additional modules may be integrated into the system without a major impact to the installed components.	√		
k. All modules of the system are integrated and designed to work together using a single input and a common database with no redundant data entry or data storage.	√		
l. The system prevents transaction data from being posted in the system unless the business rules mandated by P.A. 244 of 2005 are satisfied.	√		
m. The system has the ability to accept and output transactions in standard electronic data interchange (EDI) formats, as permitted by P.A. 244 of 2005.	√		
n. Response times, at local and remote sites, for the major on-line processes stated above will meet business requirements.	√		



<b>12. Reporting</b>			
a. The software delivers standard reports.	√		
b. The system includes ad-hoc query and reporting tools, as permitted by P.A. 244 of 2005..	√		
c. The online query capability enables non-technical end-users to extract information, as permitted by P.A. 244 of 2005..	√		
d. The standard (e.g., regularly scheduled, recurring) reporting environment allows:	√		
i. Standard reports to be scheduled, executed, viewed on-line, printed (centrally or remotely) and dispersed (including the use of report distribution management software)	√		
The State to control the information that appears on standard reports so that data security is maintained, as permitted by P.A. 244 of 2005..	√		
e. The system provides	√		
i. Methods for retaining and modifying previously built queries, as permitted by P.A. 244 of 2005.	√		
ii. Security and control mechanisms that limit the abuse of ad hoc queries (e.g., attempted access to restricted data, attempted execution of a query that would run for several hours, etc.), as permitted by P.A. 244 of 2005.	√		
iii. The use of transaction databases, external files, or a "data warehouse" for ad-hoc reporting, as permitted by P.A. 244 of 2005.	√		
<b>13. Back-up and Archival</b>			
a. The back up and archival features of the system proposed:	√		
i. Can be initiated automatically or by manual request.			
i. Provide a facility for archival of historical data.	√		
ii. Provide/support automated archive/restore functionality.	√		
<b>14. Audit Trail</b>			
a. The system enables NO modification of data entry transactions that have already been posted to the database.	√		
b. The system's internal control functionality ensures that the data entry and processing associated with a business event has been completed before updating the database, as permitted by P.A. 244 of 2005.	√		
<b>15. Edit and Validation Control</b>			
a. The system includes comprehensive field edits to prevent incomplete or incorrect data from entering the system, as permitted by P.A. 244 of 2005.	√		
b. The system ensures data integrity and controls processing without hard-coded logic	√		



<b>BUSINESS REQUIREMENTS</b>			
<b>1. Security and Confidentiality</b>			
<b>2. Training</b>			
Training is provided as part of the cost of the system, to include:			√
User training	√		
Technical training for State individuals who will be working with the services vendor to configure the applications including establishing databases and interfaces, data conversion, customization, and upgrading the customized software.			√ It is not anticipated that State individuals will be involved in these tasks; however, if necessary, training will be provided for any State individuals that participate in these activities.
Upgrades and new versions to the system that affect end-user functionality include training at no additional cost (e.g. classroom or online training, training flier, release features, etc.).	√		
All training manuals, training plans and other documentation provided become the property of the State.	√		
<b>3. Documentation</b>			
a. A minimum of two (2) copies of the following documentation in an electronic format, online and in hard copy will be provided:	√		
User and Technical Manuals - On-line and Hard Copy	√		
Data Element Dictionary Operations Manual	√		
All updates of documentation during the term of the Contract, software license, and maintenance agreement	√		
The following documentation is provided for all modules and program development:			√
i. System-wide documentation and specifications	√		
ii. Baseline End-User training manuals to be used as a basis for "User Manuals" and online help	√		
iii. Installation procedure			√ There is no software installation required.
iv. Module configuration documents sufficient for configuration maintenance purposes			√ State will not be involved in application module development beyond the requirements phase.
v. Testing scripts	√		
vi. Specification documentation	√		
vii. Production migration	√		



<b>4. Warranties</b>			
a. All configurations are covered by the manufacturer's standard warranty.	√		
b. Warranty commences on the date products are accepted by the State.	√		
c. All applicable third party warranties for deliverables are assigned to the State.	√		
d. Any upgrades of the software made during the warranty period are supplied at no additional cost.	√		
<b>5. Maintenance and Support</b>			
a. Maintenance programs commence at the end of the warranty period.	√		
b. All maintenance is performed by qualified personnel familiar with the equipment.	√		
c. Remote diagnostic capabilities are provided	√		
d. Maintenance is available on an renewable contract	√		
e. The software maintenance program includes all future software updates and system enhancements applicable to system modules licensed without further charge to all licensed users maintaining an annually renewable software support contract.	√		
f. Emergency assistance is available 24 hours a day, seven days a week, at no additional cost to the State.	√		
g. A Web-enabled help desk interface is provided at no additional cost.	√		
h. The State will be provided with information on software problems encountered at other locations, along with the solution to those problems, when such information is relevant to State software.	√		
i. For the first year and all subsequent Contract years, the following services are provided for the current version and one previous version of any Software provided with the deliverables, commencing upon installation of the deliverables or delivery of the Software:	√		
i. Error Correction. Upon notice by State of a problem with the Software (which problem can be verified), reasonable efforts to correct or provide a working solution for the problem.	√		
i. Material Defects. The State will be notified of any material errors or defects in the deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate, or otherwise materially incorrect, results and shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects	√		
ii. Updates. All new releases and bug fixes (collectively referred to as	√		



<p>“Changes”) for any software deliverable developed or published by Contractor and made generally available to its other customers at no additional charge will be provided to the State at no additional charge.</p>			
<p><b>6. Migration</b></p>			
<p>Data, and related information, has a migration path to future revisions of the hardware and software and there is a guaranteed and reasonably straightforward "exit path" to systems of other vendors.</p>			<p style="text-align: center;">√</p> <p>There are no other known vendor products that support this type of program. Any exit path would be to a currently unspecified vendor product.</p>
<p>j. Data will migrate smoothly to any future revision of the software and hardware (“smoothly” would be defined as having the system administrator follow Contractor-supplied written instructions to run a Contractor-supplied program or programs in batch mode to convert data, or any process that is simpler or more automatic than this).</p>	√		
<p>a. Data will export to software and hardware of other vendors.</p>	√		



**1B-201.1.22 ARTICLE 1, ATTACHMENT C  
DELIVERABLES**

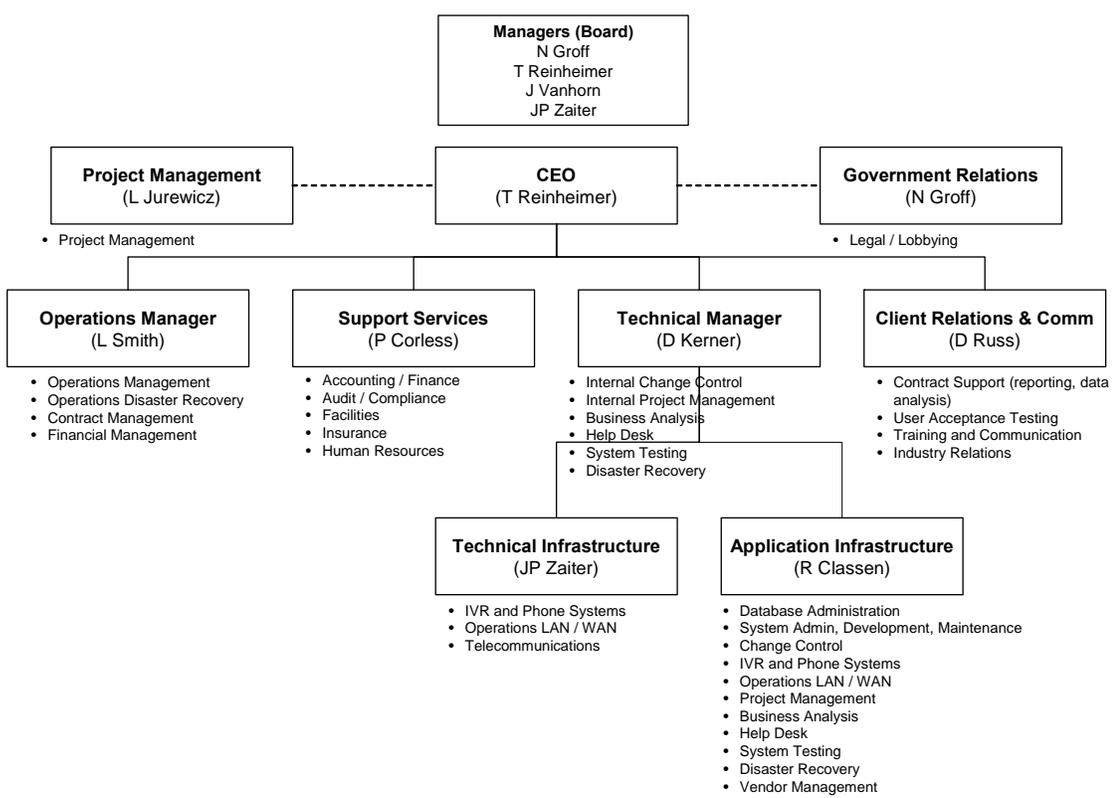
<b>Task</b>	<b>Description of Tasks</b>	<b>Vendor Role/ (Deliverable)</b>	<b>State Role</b>
<b>Phase 1 Initiation</b>	<b>Phase 1 begins on the effective date of the contract.</b>		
<i>Preparation</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Procure software and/or equipment,</li> <li><input type="checkbox"/> Work planning and scheduling,</li> <li><input type="checkbox"/> control systems development,</li> <li><input type="checkbox"/> Clarification of roles and responsibilities,</li> <li><input type="checkbox"/> Work environment preparation,</li> <li><input type="checkbox"/> Project team training planning</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Initial project plan</li> <li><input type="checkbox"/> Project management guidelines</li> <li><input type="checkbox"/> Project standards and controls</li> <li><input type="checkbox"/> Issue resolution procedures</li> </ul>	<ul style="list-style-type: none"> <li>Coordinate State resources needed</li> <li>Define project standards and controls required by the State</li> </ul>
<i>Project Team</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Project team members to meet</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Meet with State project team members</li> </ul>	<ul style="list-style-type: none"> <li>Schedule appropriate staff to attend the meeting(s)</li> </ul>
<b>Phase 2 Design</b>			
<i>Fit Analysis</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Structured walk through of application features to map product to State's needs;</li> <li><input type="checkbox"/> Clarify interface, file transfer and conversion requirements;</li> <li><input type="checkbox"/> Identify issues and prepare plans to address.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Module fit session agendas</li> <li><input type="checkbox"/> Module approach papers</li> <li><input type="checkbox"/> Module configuration documents</li> </ul>	<ul style="list-style-type: none"> <li>Provide resources and access required</li> <li>Review and verify the deliverables</li> </ul>
<b>Phase 3 Development</b>			
<i>Interface design and development</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Work with the State to design and develop interfaces identified in fit analysis (O-Base)</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Interfaces</li> <li><input type="checkbox"/> Develop, design, verify design of interface</li> <li><input type="checkbox"/> Program and install interface</li> </ul>	<ul style="list-style-type: none"> <li>Provide resources to identify and test</li> <li>Test interface</li> <li>Verify each unit-tested interface meets requirements</li> </ul>
<i>Conversion design and development (if necessary)</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Plan and design the conversion processes with plan and schedule for conversion.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Conversion design for data</li> <li><input type="checkbox"/> Program and install conversion program</li> </ul>	<ul style="list-style-type: none"> <li>Provide resources and access</li> <li>Provide data extract</li> <li>Review and verify design</li> <li>Test conversion program</li> <li>Verify each unit-tested conversion meets requirements</li> <li>Cleanse data</li> </ul>
<i>Queries and Reports design and development</i>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Assist State in developing and applying skills necessary to use/access (as provided in the Act) the system once implementation complete</li> <li><input type="checkbox"/> Develop and test reports</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Custom report development</li> <li><input type="checkbox"/> Assist with development of reports</li> <li><input type="checkbox"/> Program and install reports</li> </ul>	<ul style="list-style-type: none"> <li>Provide resources and access</li> <li>Test reports</li> </ul>



<p><i>End user and state staff training development</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Develop training manuals to reflect final requirements for using the module.</i></li> <li><input type="checkbox"/> <i>Update the training manuals to reflect the system as configured for the State.</i></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Baseline training manual templates</i></li> <li><input type="checkbox"/> <i>Assist in the development of training manuals- user, technical</i></li> <li><input type="checkbox"/> <i>Tailored training manual templates</i></li> <li><input type="checkbox"/> <i>Training plan- sessions, agenda, schedule, locations</i></li> </ul>	<p><i>Provide resources and access</i></p>
<p><b>Phase 4 Implementation</b></p>			
<p><i>Conduct user training</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Provide end user training</i></li> <li><input type="checkbox"/> <i>Provide training to technical staff</i></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Conduct User training sessions</i></li> <li><input type="checkbox"/> <i>Conduct Technical training sessions</i></li> </ul>	<p><i>Identify State staff to attend session</i> <i>Attend sessions</i></p>
<p><i>Migration, if necessary</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Coordinate tasks for cutover</i></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Production setup plan</i></li> <li><input type="checkbox"/> <i>Migration task list</i></li> <li><input type="checkbox"/> <i>Populated production database</i></li> <li><input type="checkbox"/> <i>Create and populate the production environment</i></li> </ul>	<p><i>Validate the production environment</i></p>
<p><b>Phase 5 Post Implementation</b></p>			
<p><i>Post Production Support</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Provide maintenance and support.</i></li> <li><input type="checkbox"/> <i>Resolve issues and problems as detected.</i></li> <li><input type="checkbox"/> <i>Revise procedures as needed and communicate updated procedures to the user community.</i></li> <li><input type="checkbox"/> <i>Provide help desk support and workshops as needed for users in the field.</i></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Provide support to project team as required</i></li> <li><input type="checkbox"/> <i>Provide support to user community.</i></li> <li><input type="checkbox"/> <i>Resolve system and process issues and provide user community with updated procedures.</i></li> <li><input type="checkbox"/> <i>Communicated project team decisions to user community.</i></li> <li><input type="checkbox"/> <i>Maintain issues log to be resolved with State</i></li> </ul>	<p><i>Maintain issues log to be resolved with Vendor</i></p>

**1B-201.1.23 Article 1, Attachment D**  
**Organizational Chart, including Key Personnel**

The current organization for Veritec Solutions LLC with key members identified is the following:



Managers (Board) N. Groff, T. Reinheimer, JP Zaiter, J Vanhorn  
 CEO. T. Reinheimer  
 Government Relations/Contracts: N Groff  
 Technical Manager: Dean Kerner  
 Operations Manager: L. Smith  
 Project Manager: John Pate

**Application Development Team**

Dr. Ron Classen  
 Dr. Christine Cooper  
 Mr. John Pate  
 Mr. Dean Kerner



**1B-201.1.24 Article 1, Attachment E**  
Project Plan

**1.1 Technical Approach**

The Veritec tactical plan for accomplishing the required work meets all requirements documented in the ITB. Veritec has the existing systems, knowledge capital, resources, processes and capabilities required to successfully deliver the systems and services as required by the ITB. Veritec has a proven track record in delivering mission critical business solutions to State government and the financial services industry.

This section provides the details of how we will successfully deliver systems and services required for this contract. A detailed work plan will be completed pursuant to requirements of the ITB using the State of Michigan Project Management Methodology.

**1.1.1 Methodology and Capability Overview**

The Veritec team commits to meet the level of delivery standards required by the ITB. We can ensure this performance based on several factors including:

Existing Systems and Operations are used as the foundation for this program

The Michigan Solution and tactical plan is based on updates to existing systems and operations as required to meet the unique requirements of the State of Michigan based on the ITB, the Act and Rules promulgated by the Department.

Knowledge Capital

- Veritec understands the payday loan business and regulation of this business at a statewide level. Veritec has developed an unparalleled expertise in this area through our experience with the Florida Deferred Presentment Program, the Illinois Payday Lending Program and the Oklahoma Deferred Deposit Program (ref. Technical Experience section of this document).
- “Best of breed” delivery methodologies are utilized as a framework to develop a well-thought out and realistic work plan for the project. Our management team has over one-hundred years of experience in all aspects of systems and process methodologies. This tremendous knowledge capital is based on direct experience or expertise of subject matter experts combined with industry best practices and standards as set forth by the Project Management Institute (PMI) Book of Knowledge (PMBOK) and industry leading methodologies including IBM, Andersen Consulting and state Information System Development Methodologies (ISDMs). Veritec will utilize the State of Michigan Project Management Methodology as required by the ITB.
- Veritec maintains an extensive library of sample project deliverables based on our team’s direct involvement in systems, process and strategy projects. We leverage this resource to streamline the project delivery process and provide clear direction to our team members regarding content and format of deliverables.
- Financial Services, Government and systems acumen.

Best Practices Approach to Service Delivery

- Veritec’s formal methodology provides a standard framework for delivering, leveraging, and continually enhancing a best practices approach to our service. This framework is illustrated in the Figure below - Delivery Framework.

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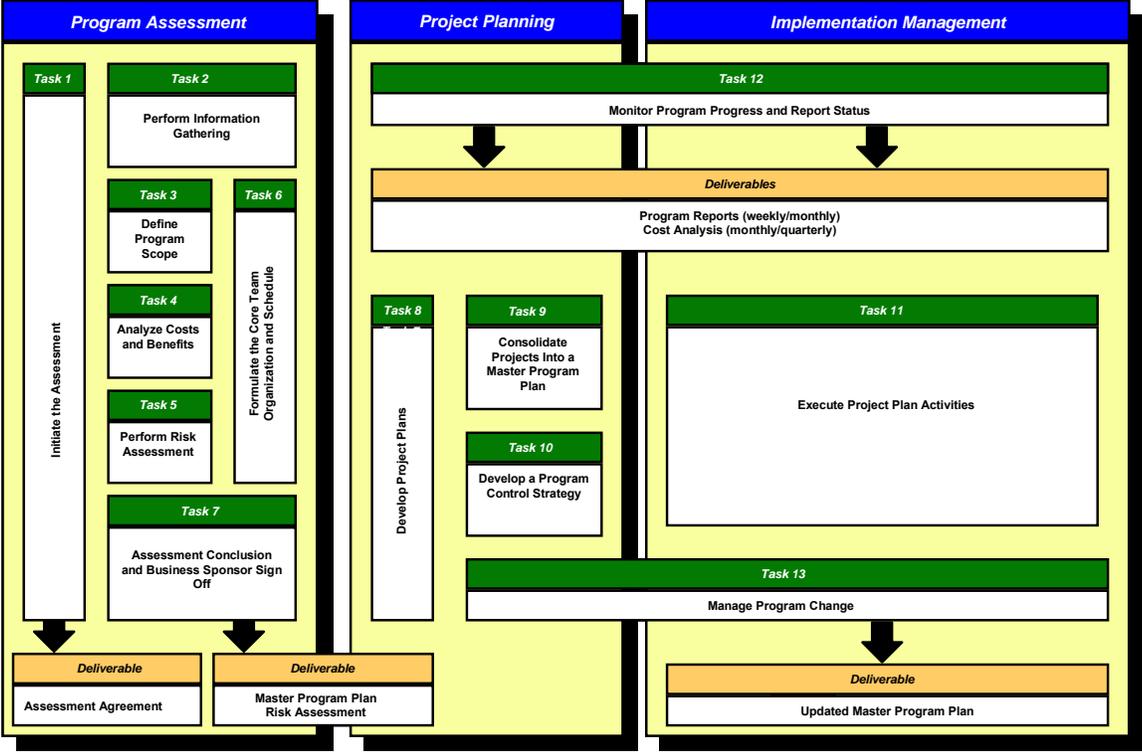


Figure 4 - Delivery Framework

Veritec’s formal methodology will be adapted to conform to the State of Michigan Project Management Methodology as required by the ITB.

- Solution Approach
  - Solution designed around business needs of licensees, their Customers and the Department.
  - Leverage existing call center, payment processing and technology infrastructure.
  - Value added services to licensees will contribute to overall success.
  - Continuous review and improvement
- Use of the Right Resources
  - Veritec utilizes a project staffing model that is based on defining actual skills and experience required to accomplish the work at hand. Team members in critical project roles are dedicated to the project effort.
- Competent Project Management
  - Our management team includes a former Andersen Consulting (now Accenture) manager with over 15 years of project management and solution delivery experience.
  - Our project manager will be dedicated to the project effort.
  - We utilize sound project management techniques including work planning, risk management, issues management, status reporting, formal communication plan, and regular informal communication to establish control over the project delivery process.
- Project Success Factors
  - One of the primary reasons that projects fail is “lack of stakeholder participation”. Our project organization requires active participation, and ultimate responsibility for project success, from all project stakeholders. Stakeholders are identified before a project begins and are required to be members of the project steering committee with assigned responsibilities.



- Another primary reason that projects fail is “lack of scope control”. The well-defined scope of this ITB is the basis of the project. Scope is continually monitored throughout the project delivery process. Any requested changes in scope go through an evaluation process and must be approved by the steering committee.
- Additional Project Success Factors practiced by the Veritec Team are illustrated in the Figure below - Project Success Factors.

Project Success Factors	Project Team Attributes
<ul style="list-style-type: none"> <li>◆ Respond to mutually understood requirements / expectations</li>   <li>◆ Deliver substantial value</li>   <li>◆ Few surprises</li> </ul>	<ul style="list-style-type: none"> <li>• Customer focus</li> <li>• Communication plan (formal)</li> <li>• Up-front agreement on deliverables (client buy-in)</li> <li>• Deliverable based milestones with client management review</li> <li>• Regular informal communication</li>   <li>• Staffed with required skills (best people)</li> <li>• Dedicated team resources in critical roles</li> <li>• Include best thinking of the organization (best practices)</li> <li>• Project standards</li> <li>• Quality deliverables with team review</li>   <li>• Deliver what we promise; at whatever cost to us</li> <li>• Competent project management</li> <li>• Management commitment</li> <li>• Communicate clearly in a timely manner</li> </ul>

**Figure 5 - Project Success Factors**

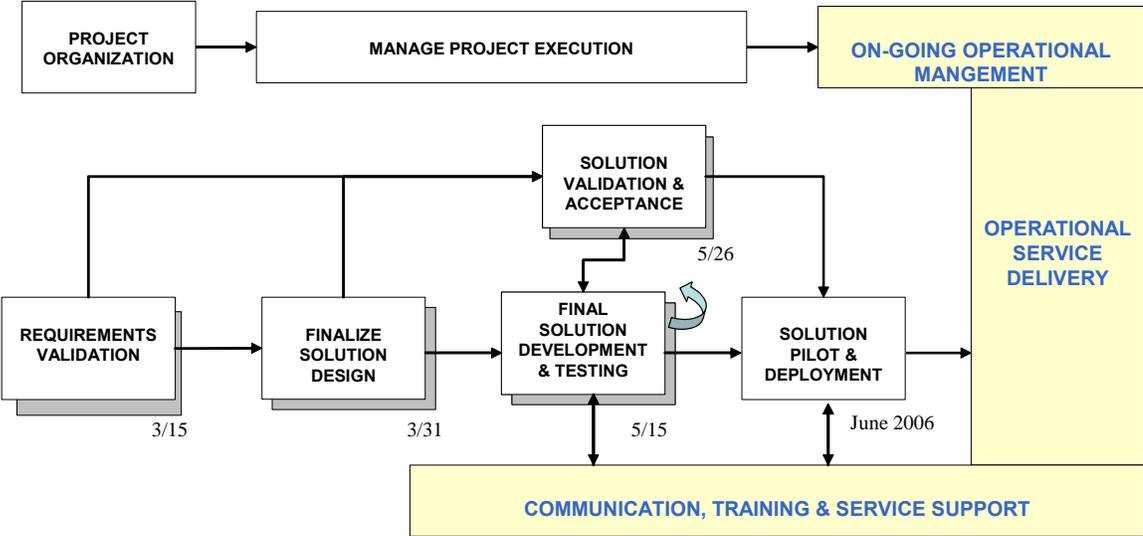
- Realistic Work Plans with Measurable Results
  - Veritec ensures that realistic work plans are developed to meet documented customer expectations and requirements.
  - Work plans include clearly defined work phases and deliverables to provide a measurable path to success.
  - Microsoft Project is the standard work planning tool used by Veritec. Veritec understands that the standard work planning tool used by the State of Michigan is an Oracle-based third party PM software (Niku). MS Project is acceptable according to published policy with the State of Michigan.
- Dedicated Development Environment
  - The project team will have full use of a dedicated development environment and office space, including a project “war room”, for the duration of the project.
- Stability



- Established business organization & infrastructure.
- Proven track record of success.
- Backed by solid financial resources.

**1.1.2 Project Approach and Work Phases**

Veritec’s standard project approach provides a framework for the delivery process and a “work breakdown structure” that segments the project into manageable work phases with clearly defined deliverables. This approach provides a benchmark for measuring project performance and serves as the basis for the project work plan. This approach is based on experience with delivering similar systems and processes for similar clients. The Veritec standard overall approach and work phases for this project are illustrated in the Figure below – Veritec Standard Overall Project Approach below.



**Figure 6 – Veritec Standard Overall Project Approach**

Veritec will translate our standard approach to conform to the State of Michigan Project Management Methodology as required by the ITB.

Veritec knows that project success starts with identifying all key stakeholders impacted by the project and business solution. Key stakeholders in this project will include the Department, Veritec, and DPPs. The key stakeholders are critical to the success of the project and will be responsible for making key decisions regarding project scope and direction, providing timely input and required resources, and for review and approval of project deliverables. Key stakeholders will provide access to the information and resources required to finalize the project organization and requirements. Key stakeholders will be responsible for the performance of their resources assigned to this project. The figure below provides a sample of the key stakeholders involved with implementation of the Oklahoma Deferred Deposit Program.

Stakeholder Group	Stakeholders
State Officials	DOCC – Don Hardin COCC – Tim Clark, Commissioner
Licensees	ABC Check Cashing ACE Cash Express Advance America Capital Advance of Oklahoma Cash America Check into Cash Dollar Financial Federal Cash Advance
Veritec	Veritec Project Manager
Consumer Credit Counseling	DOCC approved counseling agency

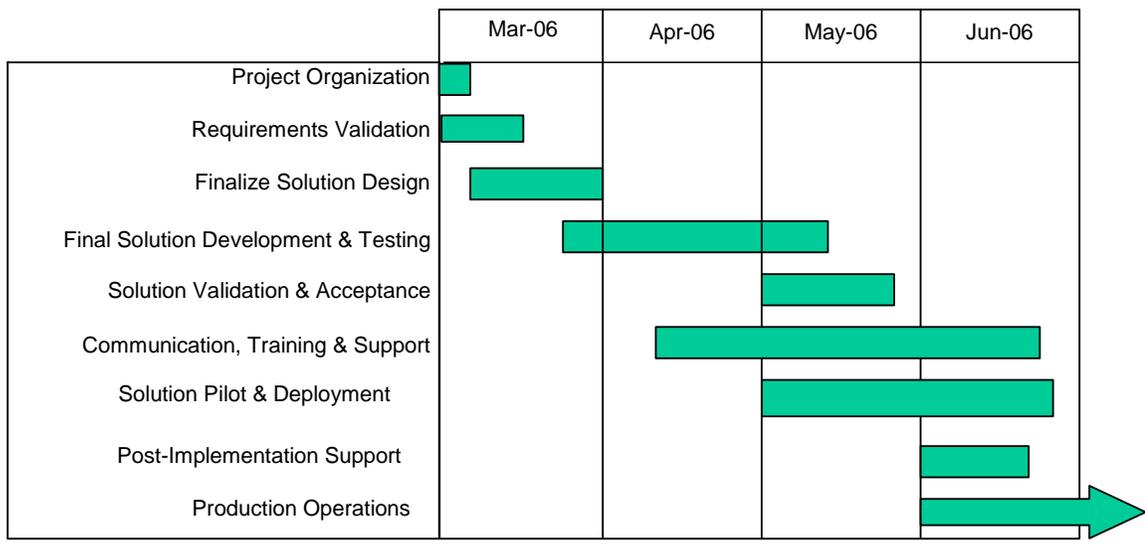
**Figure 7 - Key Stakeholders Example – Oklahoma Deferred Deposit Program**

The Veritec project approach places emphasis on validating the requirements unique to the State of Michigan and comparing those to the current Business Rules for the existing system. Updates to the solution design are identified and completed as the final development effort is underway. Solution development and testing is also an iterative process that requires active user participation. The solution will undergo rigorous validation and acceptance testing by all user groups. User approval and sign-off is required prior to releasing the system for pilot testing. Our approach places emphasis on “pilot” deployment to provide user interaction in a production environment well in advance of final deployment. This approach ensures active stakeholder, project team and customer involvement in the development process and ultimately ensures a system that is well accepted by the users and meets business requirements. Upon successful completion of a pilot deployment and final sign-off, the solution is ready for final deployment including rollout of training, business processes, and system resources.

The On-going Operational Management, Operational Service Delivery and Communication, Training and Service Support work phases encompass all of the on-going operations, technology, and support infrastructure required to maintain the system and meet service level performance requirements for the duration of the contract.

**1.1.3 Project Timeline**

The overall project timeline, based on our standard project approach, including the timeline for each work phase is shown below in the Figure below - Overall Project Timeline. The project timeline will meet all requirements of the ITB and the Act.



**Figure 8 - Overall Project Timeline**

**1.1.4 Major Milestones and Deliverables**

The Michigan Solution proposed by Veritec will meet all of the milestones and deliverables for successful delivery of the program pursuant to the ITB and the Act. Pursuant to section 1.501 CRITERIA of the ITB, Veritec understands that the following are criteria for acceptance:

- Organization and Orientation
- Verification and validation of business requirements.
- Implementation Plan
- Software Development
- Uploading of Data
- Training and Documentation
- Testing and Implementation

The criteria for acceptance, as noted above, must also take into consideration the services that are “in scope” pursuant to section 1.101 IN SCOPE of the ITB. These in-scope services include the following:

- Validation of business requirements.
- Development, hosting, management, and availability of the deferred presentment database.
- Thirty (30) day pilot period to verify compliance with statutory requirements.
- Notification and training of DPPs regarding the requirements of the system.
- Customer service function and technical support.
- Revenue collection process.
- Regulatory reporting system.
- Training documentation to include user manuals and technical manuals.
- Help Desk and Technical support

These and other project deliverables and milestones will be provided in detail in the project work plan developed during the Project Organization phase of the project.

**1.1.5 Project Communication Plan**

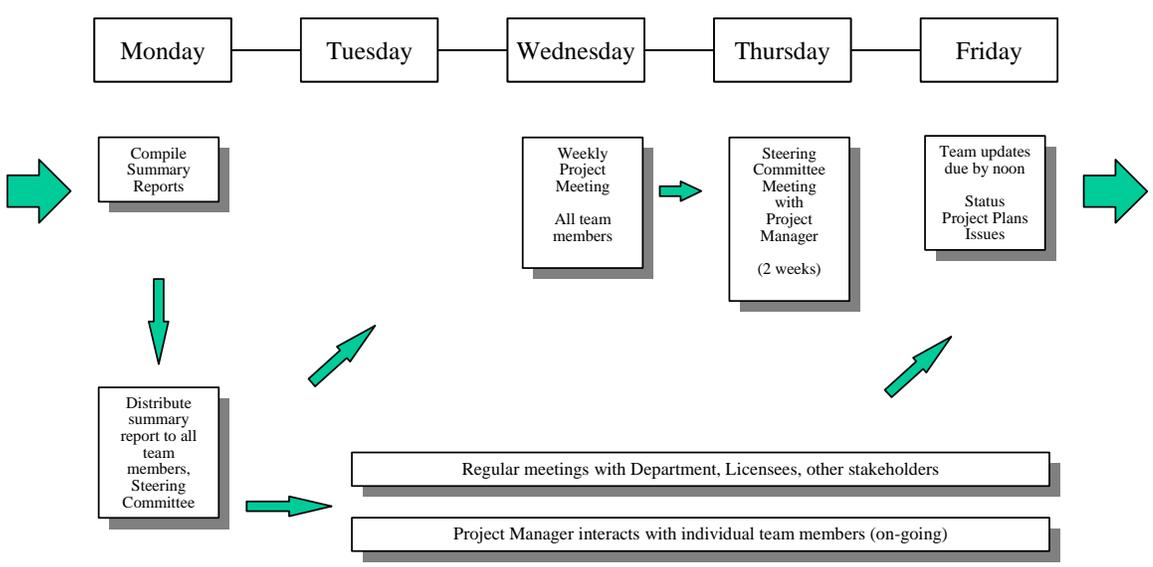
A formalized project communication process during the delivery process will ensure that management and project teams are in-touch with project priorities and issues. Steering Committee active participation will ensure that “road blocks” to overall success are minimized.

The Project Communication Plan will be finalized during the required project orientation meeting held within five (5) calendar days from execution of the Contract in Lansing, Michigan.

Performance review meetings will be conducted weekly to review project status and performance under the Contract. The format of the performance reports will be determined at the orientation meeting. Veritec understands that the State shall bear no cost for the time and travel of the Vendor for attendance at these meetings.

The Figure below - Project Communication Process Overview illustrates the type of communication process to be established for the project.

**Figure 9 - Project Communication Process Overview**



Key deliverables for the Project Communication Process will meet all requirements for the ITB and include, but are not limited to:

- Project status report summarizing the status of project at least every 30 days. Format of the project status report will include a summary of:
  - o Accomplishments to date.
  - o Deliverables behind schedule.
  - o Accomplishments scheduled for next period.
  - o Issues for management attention.



- Issues management log.
- Risk Management update.
- Up-to-date project work plan.

#### ***1.1.6 Project Change Management***

Veritec will utilize a formalized integrated change control process to manage all phases of the project. All proposed changes will be documented and classified according to impact on project deliverables and associated timeline. A governing body comprised of Michigan State officials and Veritec management will review change requests as required. Based on the final outcome of the review, the change will be added to the Project Work Plan and tracked according to appropriate outcomes and expectations as set forth by the appropriate change review board.

#### ***1.1.7 Project Location and Resources***

The Veritec project team for the project will have the full use of a dedicated development environment and office space. The team will be located at Veritec office facilities at 9428 Baymeadows Road, Suite 600, Jacksonville, FL 32256. The project team will also have use of the InTuition Development Holdings, LLC office and training facilities located in Tallahassee, FL as needed. Facilities in the State of Michigan will be secured as required to support the effort. A dedicated development environment will be established for the team that has the following specifications:

- Each team member will have an ample workspace equipped with current workstation technology.
- Dedicated and secure central servers will house the project team data files and also serve as the development environment.
- Team data files will be secured using protocols and processes outlined in the Information Safeguarding and Data Security section of this document.
- Formal change control process to ensure that applications are tested and stable before moving to the “production” environment.
- All team members will be in close proximity to facilitate formal and informal communication on the project.
- The team will have a dedicated “project war room” for the duration of the project. The project war room will be equipped with multiple white boards and have a high quality conferencing phone system.
- Team members will have secure access to the facility 24 x 7 for the duration of the project.



## **1B-201.1.25 Article 2 – General Terms and Conditions**

Veritec understands and agrees to the Terms and Conditions contained in Article 2 – General Terms and Conditions of the Contract.

Veritec understands that 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”). Accordingly, specific reference is made in this proposal to information that is considered as confidential and proprietary to Veritec.

Veritec understands that the Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage will 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.

Veritec agrees that a Certificate of Insurance pursuant to the ITB will be provided as a condition of award.

### **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 and/or Attachment D**, 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 the Department of Information Technology and Department of Labor and Economic Growth (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 procurement and 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:

Jacque Kuch  
 Office of Acquisition Services  
 Department of Management and Budget  
 Mason Bldg, 2nd Floor  
 PO Box 30026  
 Lansing, MI 48909  
 kuchj@michigan.gov  
 (517) 241-0239

## 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 (insert the end using agency), 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:

Sara Williams  
Department of Information Technology  
Secondary Complex, Operations Center  
7285 Parsons Dr  
Lansing, MI 48909  
sewilli@michigan.gov  
(517) 636-0499

## **2.016 Project Manager**

**The following individual will oversee the project:**

Name: Mark Weigold  
Department of Labor and Economic Growth  
Address: 611 W. Ottawa St  
Ottawa Building 3rd Floor  
City: Lansing  
State & Zip Michigan 38909  
Email sagek@michigan.gov  
Phone: 517-335-2073

### **2.020 Contract Objectives/Scope/Background**

#### **2.021 Background**

**Please refer to Article 1, Section 1.002**

#### **2.022 Purpose**

**Please refer to Article 1, Section 1.001**

#### **2.023 Objectives and Scope**

OFIS seeks to contract with a single provider to provide and maintain a third-party common database with real-time access through the Internet for DPPs. The Act requires the database to be operational no later than December 31, 2006.

#### **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 three (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 three (3) additional two (2) 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. A matrix of the persons assigned by Contractor to the performance of this Contract is attached as Exhibit A to this Contract, which the State has deemed acceptable. 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. **Article 1, Attachment D** provides an organization chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Article 1, Attachment D** 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. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

(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](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.

**2.53 Adherence to Portal Technology Tools**

2.54

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**

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**

RESERVED

### **2.063 Hardware**

RESERVED

### **2.064 Equipment to be New and Prohibited Products**

RESERVED

## 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**

The parties acknowledge that a bankruptcy or cessation of business without a successor by Contractor 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 such delay. Therefore, Contractor and the State agree that in the case of any such a bankruptcy or cessation of business without a successor by Contractor in respect of which the State does not elect to exercise its rights under **Section 2.191**, the State may assess liquidated damages against Contractor as specified in this Section. If a bankruptcy or cessation of business without a successor by Contractor occurs, then the State shall be entitled to collect liquidated damages in the amount of \$5,000.00 and an additional \$100.00 per day for each day Contractor fails to remedy a bankruptcy or cessation of business without a successor by Contractor .

### **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



exercise its rights under the Software License Agreement (“SOFTLA”) attached as Exhibit D to this Contract tape 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**

The Contractor’s Service Level shall be in accordance with the level set forth in its Response to the RFP.

(a) Service Level may have the following operational considerations:

(i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has occurred as defined in **Section 2.202**,

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

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

(iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following (“Stop-Clock Conditions”):

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

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

(b) Chronic Failure for any Service(s) will be defined as three (3) unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling thirty (30) day period. Chronic Failure will result in the State’s option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three (3) additional months. The termination of the Service will not affect any tiered pricing levels.

(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two (2) weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals shall be rounded to two decimal places with 5 and greater rounding up and 4 and less rounding down unless otherwise specified.

### **2.080 Delivery and Acceptance of Deliverables**

#### **2.081 Delivery of Deliverables**

There are no Deliverables with respect to this Contract. However special modifications to the Contractor’s software 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.



## **2.082 Contractor System Testing**

There are no Deliverables with respect to this Contract. However special modifications to the Contractor's software shall have System Testing in Contractor's development environment.

## **2.083 Approval of Deliverables, In General**

There are no Deliverables with respect to this Contract. However special modifications to the Contractor's software shall require formal written approval by the State

## **2.084 Process for Approval of Written Deliverables**

There are no Deliverables with respect to this Contract. However the State's review of special modifications to the Contractor's software shall be completed within a reasonable time period.

## **2.085 Process for Approval of Custom Software Deliverables**

There are no Deliverables with respect to this Contract. However the State's review of special modifications to the Contractor's software shall be completed within a reasonable time period.

## **2.086 Final Acceptance**

There are no Deliverables with respect to this Contract. However the State's "Final Acceptance" of special modifications to the Contractor's software shall be considered to occur when they have 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 using a special modification 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, such Services shall be provided at the Amendment Labor Rates. 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, 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**

### **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. 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](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 monetary 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. However, this section does not affect the Contractor's right and obligation to bill and invoice and receive payment from the Deferred Presentment Providers.

### **2.94 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 in accordance with **Article 1, Attachment E** (Project Plan) 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**

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**

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

(b) Examination of Records. Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon twenty (20) days prior written notice, have access to and the right to examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print



or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract. The Contractor’s obligations under this section and its subsections shall be deemed satisfied upon the contractor’s turnover of its records to the State in electronic format after termination of this Contract.

(c) **Retention of Records.** Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor’s records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later. The Contractor’s obligations under this section and its subsections shall be deemed satisfied upon the contractor’s turnover of its records to the State in electronic format after termination of this Contract.

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

**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. "Confidential Information" of the State shall mean non-public proprietary information. 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 or Turnover of Confidential Information**

Upon termination or cancellation of the Contract for any reason, and upon specific written request of the State, Contractor shall either turnover to the State or destroy any specifically identified State Confidential Information.

#### **2.160 Proprietary Rights**

#### **2.161 License**

In the event of a bankruptcy or cessation of business without a successor by Contractor, then Contractor grants to the State a non-exclusive, royalty-free, site-wide, license to use the its proprietary software and



related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location. The license shall be in the form of the SOFTLA, attached as Exhibit [D] to this Contract.

Subject to the SOFTLA, the State may modify the Software and may combine such with other programs or materials to form a derivative work. The State will own and hold all copyright, trademark, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Contract.

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

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

### **2.162 Source Code Escrow**

(a) The above SOFTLA shall be subject to an software source code escrow agreement in the form of Exhibit [D] attached to this Contract.

### **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.

### **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.

### **2.166 Pre-existing Materials for Custom Software Deliverables**

There are no Deliverables with respect to this Contract. Contractor owns its proprietary software and except for the SOFTLA, State shall have no rights use such software, except as stated in the SOFTLA or this Contract.



## 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 its proprietary software, 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  
RESERVED**

**2.175a DISCLAIMER**

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**2.175b 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 coverage 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](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 other 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 of the Contractor under the Contract shall 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 other party 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**

Upon ninety days (90) days prior written notice to the Contractor, 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). However, this section does not affect the Contractor’s right and obligation to bill and invoice and receive payment from the Deferred Presentment Providers.

(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. However, this section does not affect the Contractor’s right and obligation to bill and invoice and receive payment from the Deferred Presentment Providers.

(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. However, this section does not affect the Contractor’s right and obligation to bill and invoice and receive payment from the Deferred Presentment Providers.

**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 **Article 1, Attachment E**. 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) (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. Contractor may immediately terminate providing services to any Deferred Presentment Provider who fails to timely pay any bill or invoice.

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. 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 for a period of up to ninety (90) days 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

Subject to Section 2.251, any dispute arising from the Contract shall be resolved in the State of Michigan.



## 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 of Michigan  
 Office of Acquisition Services  
 Attention: Jacque Kuch  
 PO Box 30026  
 530 West Allegan  
 Lansing, Michigan 48909

with a copy to:  
 State of Michigan  
 Department of Information Technology  
 Attention: Sara Williams  
 Operation Center  
 7285 Parsons Dr  
 Lansing, Michigan 48909



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 identified in **Article 1, Attachment D** 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 for Michigan Employees**

With respect to employees of the Contractor who are residing and located with the State of Michigan, the rates of wages and fringe benefits to be paid each class of individuals employed by 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 shall keep posted on the work site at any location within the State of Michigan, 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**

If requested by caller, 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\**  
RESERVED



**1B-201.1.26 Exhibit A**  
Approved Subcontractors

Emerald Software, Inc.  
5284 Medoras Avenue  
St. Augustine, FL 32080  
904-460-9581

Charlotte Webpros  
P.O. Box 155  
Harrisburg, NC 28075  
704-287-6785



**1B-201.1.27 Exhibit B**  
PA 244 of 2005

Act No. 244  
Public Acts of 2005  
Approved by the Governor  
November 26, 2005  
Filed with the Secretary of State  
November 28, 2005  
EFFECTIVE DATE: November 28, 2005  
STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005

Introduced by Reps. McConico, Hunter, Leland, Ward, Brown, Adamini, Mayes, Clemente, Dillon, Accavitti, Gillard, Farrah, Hune, Palsrok, Williams, Lipsey, Lemmons, Jr., Kolb, Condino, Wojno, Hildenbrand, Green, Cheeks and Lemmons, III

ENROLLED HOUSE BILL No. 4834

AN ACT to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

The People of the State of Michigan enact:

ARTICLE 1

Sec. 1. This act shall be known and may be cited as the "deferred presentment service transactions act".

Sec. 2. (1) As used in this act:

- (a) "Applicant" means a person seeking a license to engage in the business of providing deferred presentment service transactions under this act.
- (b) "Check" means a draft payable on demand and drawn on a bank, savings bank, savings and loan association, or credit union. Check includes any negotiable instrument that represents evidence of an obligation to pay even if it is described on its face by another term.
- (c) "Closed" in connection with a deferred presentment service transaction means that 1 of the following has occurred concerning each of the customer's checks that is the basis of the deferred presentment service transaction:
  - (i) The check is redeemed by the customer by payment to the licensee of the face amount of the check in cash.
  - (ii) The check is exchanged by the licensee for a cashier's check or cash from the customer's financial institution.
  - (iii) The check is deposited by the licensee and the licensee has evidence that the person has satisfied the obligation.
  - (iv) The check is collected by the licensee or its agent through any civil remedy available under the laws of this state.
  - (v) The check is collected by means of a repayment plan agreed upon by the customer and the licensee or as the result of credit counseling where the licensee is paid the amount agreed upon by the licensee under that plan.
- (d) "Commissioner" means the commissioner of the office of financial and insurance services or his or her authorized representative.
- (e) "Customer" means an individual who inquires into the availability of or applies for a deferred presentment service transaction or a drawer who enters into a deferred presentment service transaction.
- (f) "Database provider" means 1 of the following:
  - (i) A third party provider selected by the commissioner under section 22 to operate the statewide database described in that section.
  - (ii) If the commissioner has not selected a third party provider under section 22, the commissioner.
- (g) Subject to subsection (2), "deferred presentment service transaction" means a transaction between a licensee and a customer under which the licensee agrees to do all of the following:
  - (i) Pay to the customer an agreed-upon amount in exchange for a fee.



- (ii) Hold a customer's check for a period of time before negotiation, redemption, or presentment of the checks.
- (h) "Drawee" means a bank, savings bank, savings and loan association, credit union, or other person upon which a check is drawn.
- (i) "Drawer" means a customer who enters into a deferred presentment service transaction with a licensee.
- (j) "Executive officer" means an officer or director of a licensee or any other individual who has the authority to participate in the direction, directly or indirectly, through 1 or more persons, or the management or policies of a licensee.
- (k) "Financial licensing act" means this act, the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or any of the acts listed in section 2(d) of the consumer financial services act, 1988 PA 161, MCL 487.2052.
- (l) "Licensee" means a person licensed to engage in the business of providing deferred presentment service transactions under this act.
- (m) "Maturity date" means the date on which a drawer's check is to be redeemed, presented for payment, or entered into the check-clearing process in a deferred presentment service transaction.
- (n) "Office" means the office of financial and insurance services of the department of labor and economic growth.
- (o) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity except a governmental entity.
- (2) Deferred presentment service transaction does not include a delay in presentment of a loan repayment check, at the request of the borrower, by a person licensed or registered under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

## ARTICLE 2

- Sec. 11. (1) Subject to subsection (2), a person shall not engage in the business of providing deferred presentment service transactions after June 1, 2006 without a license under this act. A separate license is required for each location from which the business of providing deferred presentment service transactions is conducted.
- (2) This act does not apply to a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits or member accounts are insured by an agency of the United States government.
- (3) By January 1, 2006, the commissioner by administrative bulletin, order, or rule shall establish an application process and an application timeline for license applications under this act.
- (4) A person may continue to engage in the business of providing deferred presentment service transactions in this state after June 1, 2006 and without a license until 1 of the following occurs:
- (a) The person fails to meet its applications deadline.
  - (b) The commissioner acts on the person's complete application.
- Sec. 12. To obtain a license, an applicant shall satisfy all of the following requirements:
- (a) Have and maintain net worth of at least \$50,000.00 for each licensed location, subject to a maximum of \$250,000.00 in required net worth for any 1 licensee, determined in accordance with generally accepted accounting principles.
  - (b) Demonstrate to the commissioner that the applicant has the financial responsibility, financial condition, business experience, character, and general fitness to reasonably warrant a belief that the applicant will conduct its business lawfully and fairly. In determining whether this subdivision is satisfied, and for the purpose of investigating compliance with this act, the commissioner may review any of the following:
    - (i) The relevant business records and the capital adequacy of the applicant.
    - (ii) The competence, experience, integrity, and financial ability of any person who is a member, partner, executive officer, or a shareholder with 10% or more interest in the applicant.
    - (iii) Any record regarding the applicant, or any person referred to in subparagraph (ii), of any criminal activity, fraud, or other act of personal dishonesty, any act, omission, or practice that constitutes a breach



of a fiduciary duty, or any suspension, removal, or administrative action by any agency or department of the United States or any state.

Sec. 13. (1) An applicant shall submit an application for a license to the commissioner. Each application for a license shall be in writing and under oath, in a form prescribed by the commissioner, and shall include all of the following information:

(a) The name, street address, and telephone number of the business location within this state from which the applicant will offer deferred presentment service transactions, if available.

(b) The legal name, residence, street address, and telephone number and business address of the applicant and, if the applicant is not an individual, of each executive officer and each person who directly or indirectly owns or controls 10% or more of the ownership interest in the applicant.

(c) If the applicant will not operate a physical business location in this state or if in addition to the location described in subdivision (a) the applicant will make deferred presentment service transactions by other means, a detailed description of the manner in which deferred presentment service transactions will be offered to customers in this state.

(d) Any other information the commissioner considers necessary under this act.

(2) An applicant shall include an application fee in an amount determined by the commissioner with the application described in subsection (1).

Sec. 14. (1) A licensee shall pay a license fee, in an amount determined by the commissioner under subsection (2), within 60 days of submitting its license application, and then annually.

(2) The commissioner shall annually establish a schedule of license fees based upon each licensee's business volume, number of locations, and any other business factors considered reasonable by the commissioner in order to generate funds sufficient to pay, but not to exceed, the office's reasonably anticipated costs of administering this act. A licensee shall pay the actual travel, lodging, and meal expenses incurred by office employees who travel out of state to examine the records of or investigate the licensee. An office employee who travels under this subsection shall comply with all travel regulations and rate schedules currently in effect for the reimbursement of expenses incurred by classified state employees in connection with official state business.

(3) Money received under this act shall be deposited in an interest bearing account in the state treasury and credited to the office to be used only for the operation of the office.

(4) In addition to the license fee required under subsection (1), except as provided in this subsection, a licensee shall furnish a \$50,000.00 surety bond to secure the performance of its obligations, issued by a bonding company or insurance company authorized to do business in this state and in a form satisfactory to the commissioner. However, if 1 person owns 20% or more of the ownership interest in 2 or more licensees, the group of licensees having that common ownership is only obligated to furnish one \$50,000.00 surety bond.

Sec. 15. (1) After the commissioner receives a completed license application, the commissioner shall investigate to determine whether the requirements of this act are satisfied. If the commissioner finds that the requirements of this act are satisfied, the commissioner shall issue to the applicant a license to engage in deferred presentment service transactions.

(2) A licensee shall post a copy of its license in a conspicuous location at the place of business of the licensee.

Sec. 16. (1) If the commissioner determines that an applicant is not qualified to receive a license, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(2) If the commissioner denies an application, or if the commissioner fails to act on an application within 60 days after the filing of a properly completed application, or within a longer time period agreed to by the commissioner and the applicant, the applicant may submit a written demand to the commissioner for a hearing before the commissioner on the question of whether the commissioner should grant a license. If a hearing is held, the commissioner shall reconsider the application, and issue a written order granting or denying the application after the hearing.

Sec. 17. (1) A license issued under this article is not transferable or assignable.

(2) The prior written approval of the commissioner is required for the continued operation of a licensee if there is a change in control of that licensee. The commissioner may require information considered necessary to determine whether a new application is required. The person that requests the approval shall pay the cost incurred by the commissioner in investigating the change of control request.



(3) A licensee shall do all of the following:

(a) At least 15 days before providing deferred presentment service transactions at any new location or under section 13(1)(c), provide written notice to the commissioner on a form prescribed by the commissioner of the name, street address, and telephone number of the new location or the detailed description required in section 13(1)(c).

(b) At least 15 days before discontinuing deferred presentment service transactions at any existing location or under section 13(1)(c), provide written notice to the commissioner on a form prescribed by the commissioner of the name, street address, and telephone number of the discontinued location or the detailed description of the services required in section 13(1)(c).

(4) A licensee shall comply with any request for information or documentation made by the commissioner under this act and shall comply with any reasonable written time deadlines imposed by the commissioner on that request.

(5) As used in this section, "control" means 1 of the following:

(a) For a corporation, direct or indirect ownership of, or the right to control, 10% or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy.

(b) For any entity other than a corporation, the ability to change the principals of the organization, whether active or passive.

Sec. 18. The commissioner may determine and identify by order or rule events that may occur to a licensee that require the licensee to file a written report with the commissioner describing the event and its expected impact on the activities of the licensee, on a form prescribed by the commissioner for the event.

Sec. 19. (1) A license issued under this article shall expire on September 30 of each year unless earlier suspended, surrendered, or revoked under this act. A licensee may renew a license for a 12-month period by submitting a complete application that shows continued compliance with this act, in a form prescribed by the commissioner, and paying the license renewal fee to the commissioner. The licensee shall submit a renewal application under this subsection on or before August 1 and the commissioner shall proceed in the manner described in sections 15(1) and 16.

(2) Before October 1, 2006, the commissioner may issue a license to an applicant under this article that is for a period longer than 12 months and that expires on September 30, 2007.

Sec. 20. (1) The commissioner may issue orders and rules that he or she considers necessary to enforce and implement this act. The commissioner shall make a copy of any order or rule issued under this subsection available to each licensee within a reasonable time after issuance.

(2) If any information previously submitted to the commissioner by a licensee under this act is no longer accurate, the licensee shall promptly file in writing with the commissioner a correction of the information. If requested by the commissioner, the licensee shall provide a written report of its business operations, including information described in subsection (3), within a reasonable time after the commissioner's request.

(3) If the commissioner has not implemented a database under section 22 or the database described in that section is not fully operational, as determined by the commissioner, a licensee shall do all of the following:

(a) Provide an annual written report of its business operations, including business volume and other information on the business of providing deferred presentment service transactions.

(b) Every February 1, May 1, August 1, and November 1, report to the commissioner on a form prescribed by the commissioner all of the following:

(i) The number of customers who during the preceding calendar quarter notified the licensee of a violation of this act.

(ii) A breakdown of the number of times the licensee agreed that a violation of this act occurred and the number of times that the licensee did not agree that a violation occurred.

(iii) If the licensee agreed that the violation occurred, the amount of restitution that was paid to any customer under this act.

(iv) Any other information the commissioner considers necessary under this act.

(4) To assure compliance with this act, the commissioner may examine the relevant business, books, and records of any licensee.

Sec. 21. Each licensee shall keep and use in its business any books, accounts, and records the commissioner requires under this act. A licensee shall preserve the books, accounts, and records for at



least 3 years, unless applicable state or federal law concerning record retention requires a longer retention period.

Sec. 22. (1) On or before December 31, 2006, the commissioner shall develop, implement, and maintain a statewide, common database that has real-time access through an internet connection, is accessible at all time to licensees, and to the commissioner for purposes of subsections (10) and (11), and meets the requirements of this section. Before the commissioner determines that the database is fully operational for the purposes of this act, for at least 30 days the database provider shall operate a pilot program of the database to test all of the processes of the database. The database provider shall make the pilot program available to all applicants and licensees. During the 30-day period that begins on the date the commissioner determines that the database is fully operational, the commissioner shall not approve the imposition of any database verification fees under section 34(5).

(2) The commissioner may operate the database described in subsection (1) or may select and contract with a single third party provider to operate the database. If the commissioner contracts with a third party provider for the operation of the database, all of the following apply:

(a) The commissioner shall ensure that the third party provider selected as the database provider operates the database pursuant to the provisions of this act.

(b) The commissioner shall consider cost of service and ability to meet all the requirements of this section in selecting a third party provider as the database provider.

(c) In selecting a third party provider to act as the database provider, the commissioner shall give strong consideration to the third party provider's ability to prevent fraud, abuse, and other unlawful activity associated with deferred presentment service transactions and provide additional tools for the administration and enforcement of this act.

(d) The third party provider shall only use the data collected under this act as prescribed in this act and the contract with the office and for no other purpose.

(e) If the third party provider violates this section, the commissioner shall terminate the contract and the third party provider is barred from becoming a party to any other state contracts.

(f) A person injured by the third party provider's violation of this act may maintain a civil cause of action against the third party provider and may recover actual damages plus reasonable attorney fees.

(3) The database described in subsection (1) shall allow a licensee accessing the database to do all of the following:

(a) Verify whether a customer has any open deferred presentment service transactions with any licensee that have not been closed.

(b) Provide information necessary to ensure licensee compliance with any requirements imposed by the federal office of foreign asset control under federal law.

(c) Track and monitor the number of customers who notify a licensee of violations of this act, the number of times a licensee agreed that a violation occurred, the number of times that a licensee did not agree that a violation occurred, the amount of restitution paid, and any other information the commissioner requires by rule.

(d) Determine whether a customer is eligible for repayment of the deferred presentment service transaction in installments as provided in section 35(2) and notify the licensee of that eligibility.

(4) While operating the database, the database provider shall do all of the following:

(a) Establish and maintain a process for responding to transaction verification requests due to technical difficulties occurring with the database that prevent the licensee from accessing the database through the internet.

(b) Comply with any applicable provisions of the social security number privacy act, 2004 PA 454, MCL 445.81 to 445.87.

(c) Comply with any applicable provisions of the identity theft protection act, 2004 PA 452, MCL 445.61 to 445.77.

(d) Provide accurate and secure receipt, transmission, and storage of customer data.

(e) Meet the requirements of this act.

(5) When the database provider receives notification that a deferred presentment service transaction is closed under section 34, the database provider shall designate the transaction as closed in the database immediately, but in no event after 11:59 p.m. on the day the commissioner or database provider receives notification.



(6) The database provider shall automatically designate a deferred presentment service transaction as closed in the database 5 days after the transaction maturity date unless a licensee reports to the database provider before that time that the transaction remains open because of the customer's failure to make payment; that the transaction is open because the customer's check or an electronic redeposit is in the process of clearing the banking system; or that the transaction remains open because the customer's check is being returned to the licensee for insufficient funds, a closed account, or a stop payment order, or any other factors determined by the commissioner. If a licensee reports the status of a transaction as open in a timely manner, the transaction remains an open transaction until it is closed under section 34 and the database provider is notified that the transaction is closed under that section.

(7) If a licensee stops providing deferred presentment service transactions, the database provider shall designate all open transactions with that licensee as closed in the database 60 days after the date the licensee stops offering deferred presentment service transactions, unless the licensee reports to the database provider before the expiration of the 60-day period which of its transactions remain open and the specific reason each transaction remains open. The licensee shall also provide to the commissioner a reasonably acceptable plan that outlines how the licensee will continue to update the database after it stops offering deferred presentment service transactions. The commissioner shall promptly approve or disapprove the plan and immediately notify the licensee of his or her decision. If the plan is disapproved, the licensee may submit a new plan or may submit a modified plan for the licensee to follow. If at any time the commissioner reasonably determines that a licensee that has stopped offering deferred presentment service transactions is not updating the database in accordance with its approved plan, the commissioner shall immediately close or instruct the database provider to immediately close all remaining open transactions of that licensee.

(8) The response to an inquiry to the database provider by a licensee shall only state that a person is eligible or ineligible for a new deferred presentment service transaction and describe the reason for that determination. Only the person seeking the transaction may make a direct inquiry to the database provider to request a more detailed explanation of a particular transaction that was the basis for the ineligibility determination. Any information regarding any person's transactional history is confidential, is not subject to public inspection, is not a public record subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to discovery, subpoena, or other compulsory process except in an action under section 53, and shall not be disclosed to any person other than the commissioner.

(9) The database provider may charge licensees a verification fee for access to the database, in amounts approved by the commissioner under section 34(5).

(10) The commissioner may access the database provided under subsection (1) only for purposes of an investigation of, examination of, or enforcement action concerning an individual database provider, licensee, customer, or other person. The commissioner and any employees of the commissioner, the office, or this state shall not obtain or access a customer's social security number, driver license number, or other state-issued identification number in the database except as provided in this subsection. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both, and if convicted, an individual who violates this subsection shall be dismissed from office or discharged from employment.

(11) The commissioner shall investigate violations of and enforce this section. The commissioner shall not delegate its responsibilities under this subsection to any third party provider.

(12) The commissioner shall do all of the following:

(a) Require by rule that data are retained in the database only as required to ensure licensee compliance with this act.

(b) Require by rule that data in the database concerning a customer transaction are archived within 365 days after the customer transaction is closed unless needed for a pending enforcement action.

(c) Require by rule that any identifying customer information is deleted from the database when data are archived.

(d) Require by rule that data in the database concerning a customer transaction are deleted from the database

3 years after the customer transaction is closed or any enforcement action pending 3 years after the customer transaction is closed is completed, whichever is later.



(13) The commissioner may maintain access to data archived under subsection (12) for future legislative or policy review.

### ARTICLE 3

Sec. 31. (1) A licensee shall post prominently in an area designed to be seen by the customer before he or she enters into a deferred presentment service transaction the following notice in at least 36-point type:

"1. A deferred presentment service transaction is not intended to meet long-term financial needs. We can only defer cashing your check for up to 31 days.  
2. You should use this service only to meet short-term cash needs.  
3. State law prohibits us from entering into a transaction with you if you already have a deferred presentment service agreement in effect with us or have more than one deferred presentment service agreement in effect with any other person who provides this service.  
4. If you enter into a transaction with us, we must immediately give you a copy of your signed agreement.  
5. We will pay the proceeds of a transaction to you by check, by money order, or in cash, as you request.  
6. State law entitles you to the right to cancel an agreement and receive a refund of the fee. To do this, if you enter into a transaction today, you must notify us and return the money you receive by the time this office closes tomorrow or on our next business day if we are not open tomorrow.  
7. State law prohibits us from renewing an agreement for a fee. You have to pay any other agreement in full before obtaining additional money from us.  
8. State law prohibits us from using any criminal process to collect on an agreement.  
9. State law entitles you to information regarding filing a complaint against us if you believe that we have violated the law. If you feel we are acting unlawfully, you should call the Office of Financial and Insurance Services toll-free at 1-877-999-6442.  
10. If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment service transactions with any licensee in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the deferred presentment transaction. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442."

(2) A licensee shall post prominently in an area designed to be seen by the customer before he or she enters into a deferred presentment service transaction a schedule of all fees and charges imposed for deferred presentment service transactions in at least 36-point type.

Sec. 32. (1) A licensee shall document a deferred presentment service transaction by entering into a written deferred presentment service agreement signed by both the customer and the licensee.

(2) A licensee shall include all of the following in the written deferred presentment service agreement:

- (a) The name of the customer.
- (b) The name, street address, facsimile number, and telephone number of the licensee.
- (c) The signature and printed or typed name of the individual who enters into the deferred presentment service agreement on behalf of the licensee.
- (d) The date of the transaction.
- (e) The transaction number assigned by the database provider, if any.
- (f) The amount of the check presented to the licensee by the customer.
- (g) An itemization of the fees to be paid by the customer.
- (h) A calculation of the cost of the fees and charges to the customer, expressed as a percentage rate per year.
- (i) A clear description of the customer's payment obligation under the agreement.
- (j) A schedule of all fees associated with the deferred presentment service transaction and an example of the amounts the customer would pay based on the amount of the deferred presentment service transaction.
- (k) The maturity date.



(l) A provision that the licensee will defer presentment, defer negotiation, and defer entering a check into the check-clearing process until the maturity date.

(m) A description of the process a drawer may use to file a complaint against the licensee.

(n) The following notice in at least 12-point type:

1. A deferred presentment service transaction is not intended to meet long-term financial needs. We can only defer cashing your check for up to 31 days.
2. You should use this service only to meet short-term cash needs.
3. State law prohibits us from entering into this transaction with you if you already have a deferred presentment service agreement in effect with us or have more than one deferred presentment service agreement in effect with any other person who provides this service.
4. We must immediately give you a copy of your signed agreement.
5. We will pay the proceeds of this transaction to you by check, by money order, or in cash, as you request.
6. State law entitles you to the right to cancel this agreement and receive a refund of the fee. To do this, you must notify us and return the money you receive today by the time this office closes tomorrow or on our next business day if we are not open tomorrow.
7. State law prohibits us from renewing this agreement for a fee. You have to pay an agreement in full before obtaining additional money from us.
8. State law prohibits us from using any criminal process to collect on this agreement.
9. State law entitles you to information regarding filing a complaint against us if you believe that we have violated the law. If you feel we are acting unlawfully, you should call the Office of Financial and Insurance Services toll-free at 1-877-999-6442.
10. If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment service transactions with any licensee in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the deferred presentment transaction. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442."

(3) A licensee may include an arbitration provision in a deferred presentment service transaction agreement if the arbitration provision meets all of the following:

- (a) Provides that the licensee agrees to pay any costs of the arbitration.
- (b) Provides that an arbitration proceeding shall be held within 10 miles of the drawer's address contained in the deferred presentment service transaction agreement unless the drawer consents to another location after an arbitrable dispute occurs.
- (c) Provides that an arbitration proceeding shall be conducted by a neutral arbitrator who was not and is not currently being paid by the licensee and who has no financial interest in a party to the arbitration.
- (d) Requires that the arbitrator shall provide the drawer with all the substantive rights that the drawer would have if the drawer's claim were asserted in a court proceeding and shall not limit any other claim or defense the drawer has concerning the claim.

Sec. 33. (1) A licensee may enter into 1 deferred presentment service transaction with a customer for any amount up to \$600.00. A licensee may charge the customer a service fee for each deferred presentment service transaction. A service fee is earned by the licensee on the date of the transaction and is not interest. A licensee may charge both of the following as part of the service fee, as applicable:

- (a) An amount that does not exceed the aggregate of the following, as applicable:
  - (i) Fifteen percent of the first \$100.00 of the deferred presentment service transaction.
  - (ii) Fourteen percent of the second \$100.00 of the deferred presentment service transaction.
  - (iii) Thirteen percent of the third \$100.00 of the deferred presentment service transaction.
  - (iv) Twelve percent of the fourth \$100.00 of the deferred presentment service transaction.
  - (v) Eleven percent of the fifth \$100.00 of the deferred presentment service transaction.
  - (vi) Eleven percent of the sixth \$100.00 of the deferred presentment service transaction.



(b) The amount of any database verification fee allowed under section 34(5).

(2) A licensee shall not enter into a deferred presentment service transaction with a customer if the customer has an open deferred presentment service transaction with the licensee or has more than 1 open deferred presentment service transaction with any other licensee, and shall verify whether the customer has an open deferred presentment service transaction with the licensee or has more than 1 open deferred presentment service transaction with any other licensee by complying with section 34.

(3) At the time of entering into a deferred presentment service transaction, a licensee shall do all of the following:

(a) Before the drawer signs the agreement, provide the following notice to the drawer, in a document separate from the agreement and in at least 12-point type:

"1. After signing this agreement, if you believe that we have violated the law, you may do 1 of the following:

a. Before the close of business on the day you sign the agreement, notify us in person of the violation. You must provide supporting documents or other evidence of the violation.

b. At any time before signing a new deferred presentment service agreement with us, notify us in writing of the violation. Your written notice must state the violation and provide supporting documents or other evidence of the violation.

2. We have 3 business days to determine if we agree that we have violated the law and let you know of that determination.

3. If we agree that we have violated the law, we must return your check and you must return the cash received under the agreement. Additionally, for each violation, we must pay you restitution equal to 5 times the amount of the fee we charged you under the agreement but not less than \$15.00 or more than the face amount of your check. You may also pursue an action for your actual damages against us.

4. If we do not agree that we have violated the law, we may present your check for payment or enter your check into the check-clearing process on or after the maturity date. If your check is returned to us unpaid, we may take other legal steps to collect our money.

5. If you still believe we violated the law, you may file a written complaint including supporting documents or other evidence with the Office of Financial and Insurance Services. The Office is required to investigate your complaint and has the authority to order us to pay you restitution if they agree that we violated the law. In addition, the Office can order us to pay civil fines or take away our right to do business. To do so, contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442."

(b) Provide a copy of the signed agreement to the drawer.

(c) Pay the proceeds under the agreement to the drawer by delivering a business check of the licensee, a money order, or cash, as requested by the drawer.

(4) At the time of entering into a deferred presentment service transaction, a licensee shall not do any of the following:

(a) Charge interest under the agreement.

(b) Include a maturity date that is more than 31 days after the date of the transaction.

(c) Charge an additional fee for cashing the licensee's business check or money order if the licensee pays the proceeds to the drawer by business check or money order.

(d) Include a confession of judgment in the agreement.

(e) Except as provided in this act, charge or collect any other fees for a deferred presentment service transaction.

(5) A licensee shall not refuse to provide a deferred presentment service transaction to a customer solely because the customer has exercised his or her rights under this act.

(6) Each licensee shall post a sign, printed in bold faced, 36-point type, in a conspicuous location at each customer service window, station, or desk at each place of business, that states the following:

"Under Michigan law, you are entitled to receive the proceeds of this transaction in cash. If you request the proceeds in a check or money order, you may be charged additional check cashing or other processing fees by others for cashing the check or money order."

Sec. 34. (1) A licensee shall verify a customer's eligibility to enter into a deferred presentment service transaction by doing 1 of the following, as applicable:

(a) If the commissioner has not implemented a database under section 22 or the database described in section 22 is not fully operational, as determined by the commissioner, verifying that the customer does not have an open deferred presentment service transaction with the licensee. The licensee shall maintain



a database of all of the licensee's transactions at all of its locations and search that database to meet its obligation under this subdivision.

(b) If the commissioner has implemented a database under section 22 and the database described in that section is fully operational, as determined by the commissioner, accessing the database and verifying that the customer does not have an outstanding deferred presentment service transaction with the licensee and does not have more than 1 open deferred presentment service transaction that has not been fully repaid with any other licensee.

(2) If the commissioner has not implemented a database under section 22; the database described in that section is not fully operational, as determined by the commissioner; or the licensee is unable to access the database and the alternative mechanism for verification described in subsection (3) is also unavailable, as determined by the commissioner, a licensee may rely upon the written verification of the borrower in a statement provided in substantially the following form in at least 12-point type:

"I DO NOT HAVE ANY OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTIONS WITH THIS LICENSEE AND I DO NOT HAVE MORE THAN ONE OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION WITH ANY OTHER LICENSED DEFERRED PRESENTMENT SERVICE PROVIDER IN THIS STATE."

(3) If a licensee is unable to access the database described in section 22 due to technical difficulties occurring with the database, as determined by the commissioner, the licensee shall utilize the process established in section 22(4) to verify transactions.

(4) The commissioner may use the database to administer and enforce this act.

(5) If approved by the commissioner, the database provider may impose a database verification fee for the actual costs of entering, accessing, and verifying data in the database described in section 22 to verify that a customer does not have any other open deferred presentment service transactions with the licensee and does not have more than

1 open deferred presentment service transaction with any other licensees. A database verification fee is payable to the database provider in a manner prescribed by the commissioner. A licensee may charge a customer all or part of the database verification fee under section 33(1)(b) but may not charge a customer any other fee except as authorized in section 33(1) or 35(2).

(6) A licensee may rely on the information contained in the database described in section 22 as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(7) Before entering into a deferred presentment service transaction, a licensee shall submit to the database provider the customer's name and address, the customer's social security number, driver license number, or other state-issued identification number, the amount of the transaction, the customer's check number, the date of the transaction, the maturity date of the transaction, and any other information reasonably required by the commissioner or the database provider, in a format reasonably required by the commissioner.

(8) When a deferred presentment service transaction is closed, the licensee shall designate the transaction as closed and immediately notify the database provider, but in no event after 11:59 p.m. on the day the transaction is closed. The commissioner shall assess an administrative fine of \$100.00 for each day that the licensee fails to notify the database provider that the transaction has been closed. It is a defense to the assessment of an administrative fine that notifying the database provider was not possible due to temporary technical problems with the database or to circumstances beyond the licensee's control.

Sec. 35. (1) A licensee shall not renew a deferred presentment service agreement. A licensee may extend a deferred presentment service agreement only if the licensee does not charge a fee in connection with the extended transaction. A licensee who extends an agreement under this subsection shall not create a balance owed above the amount owed on the original agreement.

(2) If a drawer enters into 8 deferred presentment service transactions with any licensee in any 12-month period, the licensee shall provide the drawer an option to repay that eighth transaction and each additional transaction in that 12-month period pursuant to a written repayment plan subject to the following terms:

(a) The drawer shall request the repayment plan, either orally or in writing, within 30 days after the maturity date of the deferred presentment service transaction.

(b) The drawer shall repay the transaction in 3 equal installments with 1 installment due on each of the next 3 dates on which the drawer receives regular wages or compensation from an employer or other regular source of income, pursuant to a written repayment plan agreement.



(c) The drawer shall pay a fee to the licensee for administration of the repayment plan. The initial amount of the fee is \$15.00. Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust the fee by an amount determined by the commissioner to reflect the cumulative percentage change in the Detroit consumer price index over the preceding 5 calendar years. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(d) The drawer shall agree not to enter into any additional deferred presentment transactions during the repayment plan term.

(3) A licensee shall advise a customer of the repayment option described in subsection (2) at the time he or she is eligible. If a customer believes he or she has been illegally denied the repayment option under this section, he or she is entitled to contact the office of financial and insurance services toll-free at 1-877-999-6442. If a customer has entered into 8 deferred presentment service transactions in any 12-month period, the database provider shall notify the licensee when the licensee submits the required customer information to the database for that customer that the customer is entitled to a repayment plan under this section. The database provider shall instruct the licensee to provide the customer with the following notice, in a document separate from the deferred presentment transaction agreement and in at least 12-point type:

"If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment transactions in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the eighth deferred presentment transaction in the 12-month period. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442."

(4) During the term of a repayment plan by a drawer under this section, the database provider shall notify the licensee at the time the licensee submits the required customer information to the database for that customer that the customer is presently in a repayment plan under this section with 1 or more other licensees and the licensee shall not enter into a deferred presentment transaction with that individual.

(5) A licensee shall not present a check for payment before the maturity date or during the term of the repayment plan. In addition to the remedies and penalties under this act, a licensee that presents a check for payment before the maturity date or during the term of the repayment plan is liable for all expenses and damages caused to the drawer and the drawee as a result of the violation. If a drawer has not requested a repayment plan on or before the maturity date, the licensee may redeem, present for payment, or enter the check into the check-clearing process under the terms of the original deferred presentment service transaction agreement.

(6) A drawer satisfies his or her obligation under a deferred presentment service agreement when the check the licensee is holding is paid by the drawee or is redeemed by the drawer by paying to the licensee an amount equal to the full amount of the check.

Sec. 36. (1) No later than the close of business on the day he or she signed a deferred presentment service agreement, a drawer who believes that a licensee has violated this act may notify the licensee in person that the licensee has violated the act. The drawer shall identify the nature of the violation and provide documentary or other evidence of the violation at that time.

(2) At any time before signing a new deferred presentment service agreement with a licensee, a drawer who believes that the licensee has violated this act in connection with a deferred presentment service transaction may deliver to the licensee a notice in writing that the licensee has violated the act. The drawer shall identify the nature of the violation and include documentary or other evidence of the violation in the notice.

(3) No later than the close of the third business day after receipt of a notice under subsection (1) or (2), the licensee shall determine if it has violated the law as alleged in the notice.

(4) If the licensee determines that it has violated the law, it shall return to the drawer the check it received in the deferred presentment service transaction and any service fee paid by the drawer to the licensee. The drawer shall deliver to the licensee cash or a cash equivalent in an amount equal to the amount of



cash the drawer received in the transaction. In addition, the licensee shall make restitution to the drawer for each violation in an amount equal to 5 times the amount of the fee charged in the deferred presentment service transaction, but not less than \$15.00 or more than the face amount of the drawer's check. A licensee that makes restitution for a violation under this subsection may be subject to a civil action under section 53 with respect to that violation. A licensee that makes restitution for a violation under this subsection shall immediately notify the commissioner of that action. The licensee shall give the commissioner detailed information about the terms of the deferred presentment service transaction and shall provide other information requested by the commissioner.

(5) If the licensee determines that it did not violate the law, the licensee shall immediately notify the commissioner and the drawer of that determination. The licensee shall give the commissioner detailed information about the terms of the deferred presentment service transaction and shall provide other information requested by the commissioner. The licensee shall include in the notification to the drawer that the drawer has the right to file a written complaint with the office if he or she does not agree with the determination that the licensee did not violate the law. The licensee shall include in the notice detailed information on how the drawer can contact the office to obtain a complaint form.

(6) A drawer who receives a notice of determination by the licensee that it did not violate the law may file a written complaint with the office on a form prescribed by the commissioner. The drawer shall include with the complaint documentary or other evidence of the violation.

(7) If the licensee has otherwise complied with this section and has determined that it did not violate the law, the licensee may present the drawer's check for payment on or after the maturity date. If a check presented for payment under this subsection is not honored, and the licensee is not in violation of this act in connection with the deferred presentment service transaction, the licensee may initiate any lawful collection effort.

(8) The commissioner shall promptly investigate a complaint filed by a drawer under this section. If after investigating the drawer's complaint, the commissioner concludes that the licensee violated this act, the commissioner may order the licensee to make restitution to the drawer in an amount equal to 3 times the amount provided for in subsection (4), but not less than \$45.00 or more than 3 times the face amount of the drawer's check. A licensee ordered to pay restitution under this subsection is also subject to any other applicable penalties and remedies available under this act for the violation.

(9) A licensee shall enter information regarding alleged violations and determinations under this section into the database as required by the commissioner.

Sec. 37. (1) A drawer may rescind a deferred presentment service agreement without cost to the drawer and for any reason if the drawer, not later than the close of business on the business day following the date of the deferred presentment service transaction, either delivers to the licensee cash in an amount equal to the amount the drawer received if the drawer received cash in the transaction or returns to the licensee the licensee's check the drawer received if the drawer received a check from the licensee in the transaction. The licensee shall return to the drawer the check received in the transaction and any service fee paid by the drawer to the licensee. A drawer who rescinds an agreement under this section is not eligible for restitution under section 36 with regard to the rescinded agreement.

(2) A drawer may redeem a check from the licensee holding the check in a deferred presentment service transaction at any time before the maturity date. A licensee shall return the check to the drawer upon receipt of cash or its equivalent in the full amount of the check. A licensee shall not contract for or collect a charge for accepting partial payments from the customer if the full amount is paid by the maturity date.

Sec. 38. (1) A licensee shall endorse a check given to it by a drawer with the actual name under which the licensee is doing business before the licensee negotiates or presents the check for payment.

(2) A licensee may contract for and collect a returned check charge that does not exceed the maximum returned check charge determined under subsection (3) if the drawer's check that the licensee is holding in a deferred presentment service transaction is returned by the drawee due to insufficient funds, a closed account, or a stop payment order. The licensee may only contract for and collect 1 returned check charge under this subsection in a transaction with a customer. In addition to the charge authorized by this section, a licensee may exercise any other remedy available under any law applicable to the return of a check because of a closed account or a stop payment order.

(3) The initial maximum amount of a returned check charge described in subsection (2) is \$25.00.

Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust



the maximum returned check charge by an amount determined by the commissioner to reflect the cumulative percentage change in the Detroit consumer price index over the preceding 5 calendar years. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(4) A drawer is not subject to any criminal penalty for entering into a deferred presentment service transaction and is not subject to any criminal penalty in the event the drawer's check is dishonored.

Sec. 39. (1) A licensee shall maintain each deferred presentment service agreement until the expiration of 3 years after the date the deferred presentment service agreement is satisfied and make available for examination by the commissioner any deferred presentment service agreements and all related documents in its possession or control including, but not limited to, any applications, credit reports, employment verifications, or loan disclosure statements.

(2) A licensee shall preserve and keep available for examination by the commissioner all documents pertaining to a rejected application for a deferred presentment service transaction for any period of time required by law.

Sec. 40. A licensee shall not do any of the following:

(a) Enter into a tying arrangement through which the licensee conditions the sale of 1 financial service to a consumer on the agreement by the consumer to purchase 1 or more other financial services from the licensee or an affiliate or subsidiary of the licensee.

(b) Knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

#### ARTICLE 4

Sec. 45. (1) A customer may file a written complaint with the office on a form prescribed by the commissioner regarding a licensee. The customer shall include with the complaint documentary or other evidence of the violation or activities of the licensee. The commissioner shall investigate a complaint filed by a customer under this subsection.

(2) The commissioner may investigate or conduct examinations of a licensee and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that justifies suspension or forfeiture of its authority to engage in the business of providing deferred presentment service transactions in this state.

(3) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any manner over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths to any person whose testimony is required. If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the commissioner may petition the circuit court for Ingham county to issue an order requiring the person to attend, give testimony, or produce evidence.

Sec. 46. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare, or is, has, or is about to violate this act, state or federal law, or an applicable rule or regulation, the commissioner may serve a notice of intention to issue a cease and desist order. A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and shall fix a time and place for a hearing at which the commissioner will determine whether to issue an order to cease and desist against the licensee.

(2) A licensee that fails to appear at a hearing under subsection (1) consents to the issuance of a cease and desist order. If a licensee consents, or upon the record made at the hearing the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its executive officers, employees, and agents to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(3) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order is effective on the date of service. A cease and desist order issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.

Sec. 47. (1) The commissioner may, after notice and hearing, suspend or revoke a license if the commissioner finds that the licensee has knowingly or through lack of due care done any of the following:



- (a) Failed to pay the annual license fee, an examination fee, or any other fee imposed by the commissioner under this act.
  - (b) Committed any fraud, engaged in any dishonest activities, or made any misrepresentations.
  - (c) Violated this act or any rule or order issued under this act or violated any other law in the course of the licensee's dealings as a licensee.
  - (d) Made a false statement in the application for the license, failed to give a true reply to a question in the application, or failed to reply to a request of the commissioner authorized in this act.
  - (e) Demonstrated incompetency or untrustworthiness to act as a licensee.
  - (f) Engaged in a pattern or practice that poses a threat of financial loss or threat to the public welfare.
- (2) If the reason for revocation or suspension of a licensee's license at any 1 location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licenses issued to a licensee.
- (3) A notice served under this section shall contain a statement of the facts constituting the violation or pattern of practice and shall fix a time and place at which the commissioner will hold a hearing to determine whether the commissioner should issue an order to suspend or terminate 1 or more licenses of the licensee.
- (4) If a licensee fails to appear at a hearing under subsection (1), the licensee consents to the issuance of the order to suspend or terminate 1 or more licenses of the licensee. If a licensee consents, or upon the record made at the hearing the commissioner finds that the pattern of practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order suspending or terminating 1 or more licenses of the licensee.
- (5) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, an order suspending or terminating 1 or more licenses of the licensee is effective on the date of service. An order suspending or terminating 1 or more licenses of the licensee issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.
- Sec. 48. (1) If the commissioner finds that a person has violated this act, state or federal law, or an applicable rule or regulation, the commissioner may order the person to pay a civil fine of not less than \$1,000.00 or more than \$10,000.00 for each violation. However, if the commissioner finds that a person has violated this act and that the person knew or reasonably should have known that he or she was in violation of this act, the commissioner may order the person to pay a civil fine of not less than \$5,000.00 or more than \$50,000.00 for each violation. The commissioner may also order the person to pay the costs of the investigation.
- (2) A civil fine assessed under subsection (1) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. In determining the amount of a fine, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee to ensure that the violation will not be repeated, and the record of the licensee in the complying with this act.
- Sec. 49. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or an executive officer of a licensee under this act. As used in this subsection, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.
- (2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing on a date within 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.
- (3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or from being employed by, an agent of, or an executive officer of any licensee under this act.
- (4) An order issued under subsection (2) or (3) is effective when served on a person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or



executive officer. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to customers, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or an executive officer of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect until the commissioner completes the review required under this section, and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection(6), the commissioner shall hold the hearing required under subsection (2) to review the suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or an executive officer of any licensee under this act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or executive officer.

(10) Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that includes findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the commissioner's order.

(13) The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any current or former executive officer or agent who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) An executive officer who is subject to an order issued under this section and who meets all of the following requirements is not in violation of the order:

(a) He or she does not in any manner, directly or indirectly, participate in the control or management of a licensee after the date the order is issued.

(b) He or she transfers any interest he or she owns in the licensee to an unrelated third party within 6 months after the date the order is final.

Sec. 50. (1) A licensee who is ordered to cease and desist, whose license is suspended or terminated, or who is ordered to pay a fine under this act is entitled to a hearing before the commissioner if a written request for a hearing is filed with the commissioner not more than 30 days after the effective date of the order.

(2) Any administrative proceedings under this act are subject to the administrative procedures act of 1969, 1969 PA306, MCL 24.201 to 24.328.

Sec. 51. (1) The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to enforce and administer this act.

(2) By July 31, 2007, the commissioner shall submit a report to the standing committees of the senate and house of representatives concerned with regulatory reform issues that includes the following information:

(a) The number of persons engaged in the business of providing deferred presentment service transactions in this state on the effective date of this act and the number on June 30, 2007.

(b) A general report on the business of providing deferred presentment service transactions in this state as of June30, 2007. The report shall include the number of licensees, the number of customers, the number



and amount of transactions, and any other financial information about deferred presentment service transactions in this state requested by the legislature or considered relevant by the commissioner.

Sec. 52. A person who provided deferred presentment service transactions in this state before the effective date of this act is considered to have complied with applicable state law if the person provided those transactions in substantial conformity with the rulings and interpretive statements then in effect that were issued by the office or its predecessor agency.

Sec. 53. A person injured by a licensee's violation of this act may maintain a civil cause of action against the licensee and may recover actual damages and an amount equal to the service fee paid in connection with each deferred presentment service transaction that is found to violate this act, plus reasonable attorney fees.

This act is ordered to take immediate effect.

Clerk of the House of Representatives  
Secretary of the Senate  
Approved  
Governor

**1B-201.1.28 Exhibit C**

## SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is made and effective this \_\_\_ day of April 2006 by and between Veritec Solutions, LLC, a Florida limited liability company, ("Developer") and the State of Michigan ("Licensee").

Developer has developed and licenses its software program related to web-based database system to track deferred presentment transactions within the State of Michigan (the "Software").

Licensee desires to utilize a copy of the Software.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, Developer and Licensee agree as follows:

**1. License.**

Developer hereby grants to Licensee a perpetual, non-exclusive, limited license to use the Software in the United States of America as set forth in this Agreement. This License shall first become automatically effective if Developer shall file for protection under the bankruptcy laws, or cease business without a successor by Developer, or if an involuntary petition shall be filed against Developer and not removed within thirty (30) days, or if the Developer 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 Developer and/or its affiliates are unable to provide reasonable assurances that Developer and/or its affiliates by the can deliver the services provided in the Servicing Agreement, defined below.

**2. Restrictions.**

Licensee shall not modify, copy, duplicate, reproduce, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of Developer; provided that Licensee may make one copy of the Software for backup or archival purposes.

**3. Fee.**

In consideration for the grant of the license and the use of the Software, Licensee has entered an agreement with Developer for web-based database system to track deferred presentment transactions within the State of Michigan (the "Servicing Agreement").

**4. Warranty of Title.**

Developer hereby represents and warrants to Licensee that Developer is the owner of the Software or otherwise has the right to grant to Licensee the rights set forth in this Agreement. In the event of any breach or threatened breach of the foregoing representation and warranty, Licensee's sole remedy shall be to require Developer or to either: i) procure, at Developer's expense, the right to use the Software, ii) replace the Software or any part thereof that is in breach and replace it with Software of comparable functionality that does not cause any breach, or iii) refund to Licensee the full amount of the license fee upon the return of the Software and all copies thereof to Developer.

**5. Warranty of Functionality.**

A. At the time of delivery of the Software to Licensee and while the Servicing Agreement is in effect (the "Warranty Period"), Developer warrants that the Software shall perform in all material respects according to the Developer's specifications concerning the Software when used with the appropriate computer equipment. In the event of any breach or alleged breach of this warranty, Licensee shall promptly notify Developer and return the Software to Developer at Licensee's expense. Licensee's sole remedy shall be that Developer shall correct the Software so that it operates according to the warranty. This warranty shall not apply to the Software if modified by anyone or if used improperly or on an operating environment not approved by Developer.



B. In the event of any defect in the media upon which the Software is provided arising at the time of delivery of the Software, upon return to Developer of the Software upon the original media, Developer shall provide Licensee a new copy of the Software.

6. Software Maintenance.

A. Standard maintenance. During the Warranty Period, Developer shall provide to Licensee any new, corrected or enhanced version of the Software as created by Developer. Such enhancement shall include all modifications to the Software which increase the speed, efficiency or ease of use of the Software, or add additional capabilities or functionality to the Software, but shall not include any substantially new or rewritten version of the Software.

B. Optional maintenance. After expiration of the Warranty Period, Licensee may continue to receive maintenance support for successive twelve (12) month periods. The charge for such optional maintenance support shall be negotiated between the Developer and the Licensee. Licensor shall notify Developer in writing if it desires to receive optional maintenance. If Licensee fails to take optional maintenance and later elects to receive it, Developer reserves the right to charge Licensee its maintenance fees for the period of the lapse in maintenance. Developer may elect to discontinue maintenance at any time upon notice to Licensee, and refund of any then unearned maintenance fees.

7. Payment.

Payment of the license fee shall be deemed made upon timely payment of all amounts owing under the Servicing Agreement, including by third party deferred presentment providers. Payment of any other amount owed by Licensee to Developer pursuant to this Agreement shall be paid within thirty (30) days following invoice from Developer. In the event any overdue amount owed by Licensee is not paid following ten (10) days written notice from Developer, then in addition to any other amount due, Developer may impose and Licensee shall pay a late payment charge at the rate of one percent (1%) per month on any overdue amount.

8. Taxes.

In addition to all other amounts due hereunder, Licensee shall also pay to Developer, or reimburse Developer as appropriate, all amounts due for property tax on the Software and for sales, use, excise taxes or other taxes which are measured directly by payments made by Licensee to Developer. In no event shall Licensee be obligated to pay any tax paid on the income of Developer or paid for Developer's privilege of doing business.

9. Warranty Disclaimer.

DEVELOPER'S WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Limitation of Liability.

Developer shall not be responsible for, and shall not pay, any amount of incidental, consequential or other indirect damages, whether based on lost revenue or otherwise, regardless of whether Developer was advised of the possibility of such losses in advance. In no event shall Developer's liability hereunder exceed the amount of license fees paid by Licensee, regardless of whether Licensee's claim is based on contract, tort, strict liability, product liability or otherwise.

11. Notice.

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.



If to Developer:

Nathan Groff  
Veritec Solutions, LLC  
9428 Baymeadows Road  
Suite 600  
Jacksonville, FL 32256

If to Licensee:

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

with a copy to:  
State of Michigan  
Department of Information Technology  
Attention: Sara Williams  
Operation Center  
7285 Parsons Dr  
Lansing, Michigan 48909

12. Governing Law.

This Agreement shall be construed and enforced in accordance with the laws of the state of the State of Michigan.

13. No Assignment.

Neither this Agreement nor any interest in this Agreement may be assigned by Licensee without the prior express written approval of Developer.

14. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

15. Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

16. Headings.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

IN WITNESS WHEREOF, Developer and Licensee have executed this Software License Agreement on the day and year first above written.

[Signature]

**1B-201.1.29 Exhibit D**

DPP Automatic Payment Authorization Form

**Please provide the information requested below and return this form by mail or FAX to:**

Veritec Solutions L.L.C.  
9428 Baymeadows Rd Suite 600  
Jacksonville, FL 32256

Customer Service – Toll Free: 1-877-352-3771  
Fax: 904-421-7160

**Please select one of the following:**

- New DPP Lender ACH Information
- Updating ACH Information

**Please print clearly in ink or type the information requested below.**

FEIN #: \_\_\_\_\_

DPP Business Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Name of Financial Institution: \_\_\_\_\_

Bank Contact Person: \_\_\_\_\_

Bank Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

Transit Routing Number: \_\_\_\_\_

Bank Account Number: \_\_\_\_\_

Savings: \_\_\_\_\_ or Checking: \_\_\_\_\_

By signing below I authorize Veritec to initiate debit entries for Deferred Presentment Transaction fees and to initiate, if necessary, any credit entries and adjustments for any debit entries made in error to the bank account named above. This authority is to remain in full force and effect until Veritec has received written notification from me of its termination in such time and manner as to afford Veritec a reasonable opportunity to act on it. In the event of unsuccessful debits, I understand that Veritec reserves the right to cancel this authorization and that Veritec will notify me of such action.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date