

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

April 16, 2007

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B6200391
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR MessageNet Systems, Inc 101 E Carmel Drive, Suite 105 Carmel, IN 46032 Kendra@MessageNetSystems.com	TELEPHONE 317-566-1677 ext 101 Kendra Geis
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Ann Lindberg MDE/MSDB – Visual Public Announcement System	
CONTRACT PERIOD: From: September 8, 2006 To: September 7, 2009	
TERMS NA	SHIPMENT N/A
F.O.B. Destination	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effectively immediately, the buyer for this contract is changed to Steve Motz.

AUTHORITY/REASON(S):

Purchasing Operations request.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$186,514.21

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

September 8, 2006

NOTICE
 OF
 CONTRACT NO. 071B6200391
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR		TELEPHONE 317-566-1677 ext 101 Kendra Geis
MessageNet Systems, Inc 101 E Carmel Drive, Suite 105 Carmel, IN 46032 Kendra@MessageNetSystems.com		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-2005 Lisa Morrison
Contract Compliance Inspector: Ann Lindberg MDE/MSDB – Visual Public Announcement System		
CONTRACT PERIOD: From: September 8, 2006 To: September 7, 2009		
TERMS	SHIPMENT	
NA		N/A
F.O.B.	SHIPPED FROM	
Destination		N/A
MINIMUM DELIVERY REQUIREMENTS N/A		

The terms and conditions of this Contract are enclosed. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$186,514.21**

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

September 5, 2006

NOTICE
OF
CONTRACT NO. 071B6200391
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR MessageNet Systems, Inc 101 E Carmel Drive, Suite 105 Carmel, IN 46032 Kendra@MessageNetSystems.com	TELEPHONE 317-566-1677 ext 101 Kendra Geis
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-2005 Lisa Morrison
Contract Compliance Inspector: Ann Lindberg MDE/MSDB – Visual Public Announcement System	
CONTRACT PERIOD: From: September 8, 2006 To: September 7, 2009	
TERMS	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">Destination</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

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Estimated Contract Value: \$186,514.21

FOR THE VENDOR: MessageNet Systems, Inc _____ Firm Name _____ Authorized Agent Signature _____ Authorized Agent (Print or Type) _____ Date	FOR THE STATE: _____ Signature Greg Faremouth, Director _____ Name Services Division, Purchasing Operations _____ Title _____ Date
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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

The purpose of this contract is to provide equipment, software, maintenance and support for a Visual Public Announcement (PA) System for the Michigan School for the Deaf (MSD) that will be installed and implemented at the MSD to be operated by the State and maintained by the Contractor.

The negotiated contract will have a maximum term of four (4) years, with one (1) year extension possible.

1.02 BACKGROUND

The MSD is a division of the Michigan Department of Education (MDE) and is located on an 80-acre campus at 1667 West Miller Road, Flint Michigan 48503. The MSD is a public residential school for children who are Deaf or Hard of Hearing established by an Act of the Michigan Legislature in 1848. Students are referred by their local school districts. MSD serves students from birth to 26 and their families throughout the State of Michigan. The campus includes:

- Thelma Heck Service Building with the cafeteria and health center
- Fay Academy
- MSD Library (located within Fay Academy)
- Stewart Gym with an indoor swimming pool, (located within Fay Academy)
- Stevens Hall which is home to all residential students, has 5 units, including a recreational center and snack bar.

It is the mission of the MSD to provide a safe environment, rich in communication, which is most conducive to learning, thereby maximizing each student's individual potential educationally, socially and emotionally. We believe a school environment that recognizes, values, and accommodates students' unique abilities and interests provides the opportunity for development of maximum potential.

MessageNet Systems (MNS) Response: MNS understands and complies with MSD's objectives for this contract.

MSD has the following objectives for this contract:

- A visual PA system, including message boards/signs, providing the capabilities of an audio-based PA system in a visual format to meet the needs of the Deaf, Hard of Hearing, and Hearing communities at MSD.
 - Based on computer technologies to provide advanced functionality exceeding the capabilities and avoiding the limitations of audio-based PA systems.
 - Interfaced with the school's emergency system.
 - During an emergency alarm, the message boards must flash to notify those with a hearing loss the type of alarm, and assist them to evacuate in the appropriate direction. The message boards must also be compatible to have strobe lights attached to them to enhance notification of the emergency announcement.

MNS Response: MNS VisualPA system can actuate strobe light systems at the same time that it sends an emergency message to the signs. The VisualPA product can activate and control networks of strobe lights



that utilize a dry contact closure or RS232 control. MNS VisualPA system standard LED signs do not directly support the connection and actuation of strobes. It is MNS technical position that strobes and signs should be independent of each other so as to remove a single point of failure that could disable both systems.

- The system must have location awareness and respond by notifying those who see the sign not to exit toward danger, but to turn around and proceed in the appropriate direction.
- Allow anyone at any PC or other computer work station, such as Apple Macintosh, to send messages to any of the message board signs anywhere on the MSD campus.
- Provide a “browser-based” interface so that persons on or off campus can utilize Internet Explorer 6.0 to communicate with the electronic signs. Ability to communicate with State of Michigan pagers and other text messaging devices such as PDA’s.
- Allow messages to be addressed to individuals or groups of individuals and to allow the addressed individuals via State pagers or PDA’s to reply to messages in a two-way, real time interactive communication.
- Be constructed of industry-standard and low-cost components to facilitate expansion to the entire campus.
- Provide fully integrated paging capabilities that support TAP, SMTP and TNPP protocols and be compatible with in-house paging transmitters and commercial paging services.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

The Contractor will provide the following services and deliverables for the complete and successful implementation of a Visual PA System providing the functionality required for the State’s business operations for the Michigan Department of Education, at the Michigan School for the Deaf located in Flint, Michigan:

1. Identification of business requirements for the system
2. Verification and validation of business requirements
 - a. System application
 - b. Technical environment – including hardware, operating system, WAN, LAN, telecommunications
3. System design
4. Provide software (preferably off-the-shelf software, with a minimum of Contractor-supplied custom coding)
5. Development and testing
6. Deployment, Installation and Implementation of the system
7. Training
8. All hardware requirements are to be provided and included in the proposed solution; however, the State will retain the right to obtain any required hardware from current contracted providers.
9. Optional: Purchase of equipment
 - a. Application server(s)
 - b. Peripheral(s)
10. Transition
11. Documentation and diagrams, including configuration
12. Maintenance and support



1.102 OUT OF SCOPE

Installation of CAT 5 cable and the physical mounting of the message boards for this project are out of scope.

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>.

MDE's current technical environment includes:

- **Hardware Listing:** Dell 620
- **Operating Systems:** Windows XP
- **Software Listing:** Office XP Enterprise License, Symantec Antivirus 9.0, Acrobat Reader 7.0, GroupWise and Novell, DCDS, QuickTime, Clear Access 7, Oracle 8, Boardmaker 1.7, FileMaker Pro 5.0, Intellitools Classroom Suite, Studio 4, Kidspiration, Inspiration, AR Reader, Star Reader, PageMaker 7.0, MS Publisher
- **Network:** Novell Network (will be Active Directory 2003 in the near future)
- **Browser:** Internet Explorer – Version 6.0

1.104 WORK AND DELIVERABLE

Requirements - The Contractor must provide the requested information, identify whether the stated requirement is met/not met by the solution proposed, and describe how the proposed solution satisfies the requirements which follow.

MNS Response: MNS understands and complies.

Planned four-year phase is as follows:

Year one: Connection of 97 message boards in Fay Academy (71 in classrooms; 26 in hallways)

Year two: Connection of 24 message boards in Stevens Hall (12 in rooms; 12 in hallways)

Year three: Connection of 9 message boards in Living Resource Center (3 in rooms; 6 in hallways)

Year four: Connection of 13 message boards in Thelma Heck Service Building (7 in rooms - 1 will be a large message board); Communication Access Center (2 in rooms; 4 in hallways).

A. General System Requirements –

1. General – The system must:

MNS Response: MessageNet Systems understands and complies

- a. Be capable of individually addressing and messaging to more than 200 LED-based scrolling electronic message display signs.
 - i. Multiple types, shapes and sizes of signs must be supported including indoor, outdoor, single line and multi-line models.
- b. Be capable of residing on an industry-standard PC.
 - i. It must be capable of functioning correctly on computers with a 120 GB hard drive and 1 GB of ram.
 - ii. Minimum processor speed is 2.0 GHz.
- c. Be capable of being configured in a redundant server configuration. Redundant servers must:
 - i. Be able to assess the health of the primary server.
 - ii. Be capable of automatically assuming the IP address of the primary server and service the electronic signs, pagers, and other devices being supported.



- d. Support multiple methods of connecting to LED signs.
- e. Because connectivity options and connectivity cost varies by location it is essential that the system be able to communicate to LED signs
- f. Use IP data network protocol for communication on the Ethernet LAN.

2. Communication to Message Boards/Signs

MNS Response: MessageNet Systems understands and complies.

- a. The system must be able to connect to signs using power over Ethernet, Standard 802.3AF.

MNS Response: MNS solution for VisualPA uses industry standard LED signs and these signs consume more power than the Standards Based POE devices provide. The devices available on the market provide more than enough Volts but do not provide enough amps or enough watts. For this reason MNS has had to engineer our own power solution using other industry standard power supplies that meet the signs power requirement. MNS does comply with the 802.3AF data and conductor specifications for CAT5. MNS will provide the solution needed to provide the power over CAT5. (Same on section b. & c. as referred to 802.3AF)

The max voltage and amps on the Cat 5 cabling will be as follows:

- 24V, 2.9A, 70W (Max output of the power supply in the closet)
- Actual draw from the signs is 9V, 2.5A, 22.5W

- b. The system must support signs with RS232 interfaces via sign controllers that connect to Ethernet LAN. Sign controllers must:
 - i. Be capable of being stopped and restarted by commands from the server.
- c. The system must support remote powering of Standard 2 inch character LED signs over the Category 5 data cable up to 300 feet using power over Ethernet, Standard 802.3AF.
 - i. Power supplies and any required power conditioners must be included in bid.
- d. Remote Powered signs must be provided with mounting brackets that allow for mounting the signs at the ceiling line of rooms with a suspended ceiling. The mounting brackets:

MNS Response: MNS understand and complies with section d,e,f,g,h, and i.

- i. Cannot be attached to ceiling grid or ceiling tiles.
 - ii. Must not require drilling, piercing or defacing the walls below the ceiling line as these signs may need to be moved repeatedly over the course of their expected life time.
 - e. Be able to support pager-based 450-470 MHz wireless communication to signs.
 - f. Support wireless duress buttons, and other wireless security devices such as motion detectors, smoke detectors, door – window open detectors.
 - g. Support both commercial and in-house pagers.
 - h. Support onsite paging transmitters that are connected to the LAN.
 - i. Support multiple commercial paging providers via SMTP, TAP, TNPP and email transport of pages.
- 3. Project Plan - Contractor will provide a Preliminary Project Plan including the necessary time frames and deliverables for the various stages of a project and the responsibilities and obligations of both the Contractor and the State.**

MNS Response: MNS understands and complies. See Project Plan – Article 1, Attachment D MNS will provide its project documents as MS Word documents. It is anticipated that the State's assigned Project



Manager will load this information into the PMM systems. MNS will work with the State's Project Manager and the School Project Manager to ensure accurate inclusion/conversion of documents.

Project Scale: MNS has implemented VisualPA systems at many Schools for the Deaf through out the country. Though these implementations can be lengthy they are very repetitive primarily involving the cabling and installation of 100 or more LED signs. As such there is little complexity to the overall process. Additionally the repetitive portion, pulling and crimping data cable, is a highly standardized and universally understood process.

- a. In particular, the Preliminary Project Plan will include:
 - i. A description of the deliverables to be provided under this contract.
 - ii. Target dates and critical paths for the deliverables.
 - iii. Identification of roles and responsibilities, including the organization responsible.
 - iv. The labor, equipment, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Implementation Plan.
 - v. Process to finalize requirements
 - vi. Internal milestones
 - vii. Task durations
- b. Final Project Plan – Within fifteen (15) working days of the award of the Contract, the Contractor will submit their final project plan to the State's Project Manager for final approval. The project plan may include:
 - i. The Contractor's project organizational structure.
 - ii. 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.
 - iii. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
 - iv. The time-phased plan, showing each event, task, and decision point in the work plan, such as those identified in the table that follows:
- c. Contractor agrees that the Project Plan shall become incorporated as part of the Contract and Scope of Services.
 - i. The Plan will serve as the State's measurement tool, outlining all of the tasks, their delivery dates, together with testing periods and implementation dates.

B. Services to be Provided

Contractor will provide services identified in Section 1.101 for the complete and successful implementation of the system providing the functionality required.

1. Requirements Gathering and Validation – The Contractor shall:

- a. Describe and follow their methodology to conduct and document requirements gathering and validation sessions.

MNS Response: MNS is providing a COTS product that meets the specifications as set forth in this contract. As such MNS considers the requirements enumerated in this document to be the Validated Requirements document.

- b. Clarify any unclear or ambiguous requirements which could have an impact on system design or implementation.



MNS Response: MNS does not perceive any requirements to be ambiguous at this time.

- c. The requirements validation activities must include, but are not limited to:
 - i. System requirements
 - ii. Network WAN, LAN, and installation requirements

MNS Response: MNS understands the system and network requirement listed in this section and complies as listed.

- d. Necessary hardware and software required to implement the system

MNS Response: MNS will provide the requested deliverables of hardware and software and provide that list in Article 1, Attachment C.

2. Technical Requirements –

MNS Response: MNS understands and complies.

- a. All interaction with the system is done through a user's browser (Internet Explorer 6.0) that is already on the user's desktop. Ability to communicate with State of Michigan pagers and other text messaging devices such as PDA's.
- b. The system is not affected by or dependent on any other system.
- c. Contractor shall provide a full description of available disaster recovery functionality.
- d. The system shall provide automatic notification of system failures on all server and network components.
- e. Authorized personnel shall be able to easily monitor the operation of all systems by accessing various system logs and/or observing the real time displays of various system status, exception event reporting and alarms.
- f. All purchased equipment and materials shall be new, not used or refurbished.
 - i. All equipment, components, materials and software provided shall be the latest models and versions and shall conform to current applicable telecommunications industry standards.

C. System Design

1. Custom Software Design – Contractor shall:

MNS Response: MNS is not providing custom software, only off-the-shelf software.

- a. Provide detailed system design documents and diagrams for any custom-developed software. The custom software design documentation will:
 - i. Include business and system processes, data elements, edits, data flow processes, database(s) and files, data structures and layouts, screens and other system interface processes, all system inputs and outputs.
 - ii. Document logical/physical data models, logical network design, application controls, application security, restart and recovery procedures, performance testing and metrics and manual control procedures.
 - iii. State of Michigan Department of Information Technology software and coding standards will be enforced.
 - iv. Software developed will be non-proprietary and ownership will transfer to the State.
 - v. State of Michigan acceptance, approval, knowledge transfer, and sign-off are required for the design of any custom software used in the Contractor's solution.



- b. Commercial Off-the-Shelf (COTS) Software –
 - i. If commercial off-the-shelf software is part of the overall system design, Contractor shall include software documentation and provide detailed instructions to State staff. Documentation is to include:
 - 1. System functions, data elements, edits, data flow processes, logic of the system(s), database(s) and files, data structures and layouts, screens and other system interface processes, all system inputs and outputs, logical network design, application controls, application security, restart and recovery procedures, and manual control procedures.
 - 2. The business logic rules and process flow.
 - ii. Off-the-shelf software must integrate with the existing State of Michigan infrastructure and must not require changes to the existing MSD systems.
 - iii. State of Michigan acceptance, approval, knowledge transfer, and sign-off are required for the use and incorporation of COTS software used in the Contractor's design solution.
 - iv. Contractor is responsible for compliance with any and all COTS software licensing requirements up to such time that the licenses transfer to the State.

D. Specific Software Requirements - The system must:

MNS Response: MNS solutions meet all software requirements listed below.

- 1. Support messaging to LED-based scrolling electronic message display signs
- 2. Be accessible from any PC or computer workstations connected to the MSD LAN.
- 3. Have the ability to run under Internet Explorer 6.0 as its primary user interface.
- 4. Be able to support at least 50 concurrent users.
- 5. Be capable of supporting more than 300 login accounts.
- 6. Be a multi-user expandable system.
- 7. Be based on open standards and low-cost components.
- 8. Be expanded to support multiple buildings on a campus or separated by great distances.
- 9. Support a user ID and pass code to be used to define all users to the system.
 - a. These elements are required to log on to the system before use.
 - b. Privilege classification of users must be supported to allow the system administrator to determine which system features each user can use.
- 10. Use the Logon to track all messages and pages sent.
 - a. This information is stored in a permanent audit trail archive for accounting purposes and to prevent abuse of the system.
- 11. Support message prioritization and message filtering.
 - a. Messages must be capable of changing priorities after a user-definable period of
- 12. Support 999 user-defined message and sign priorities to provide communication flexibility.
 - a. When a high priority message is sent to signs, messages of lower priority must be suspended from display while the high priority message is being displayed.
 - b. When high priority messages are removed from a sign, the lower priority messages that are resident on the sign must be reinstated on the sign automatically without user intervention.
- 13. Allow message displays to support a "filter" priority.
 - a. Message display signs will not display messages that have a lower priority than the signs priority
- 14. Include user-predefined messages, fill in the blank messages, and open messages.
- 15. Allow users to predefine messages, create fill in the blank messages and messages that allow for the entire message to be entered just before sending.
 - a. All such messages can be organized into message directories.
 - b. Rules governing the behavior of messages are defined by reusable message templates.
 - c. Message templates facilitate multiple concurrent uses of messages by different people.
- 16. Support user directories and message directories to support the efficient use of the system by multiple people.



- a. The system must be able to provide each user with “their own” message directory or allow users to share message directory as desired.
 - b. Message archive directories can be established to store old messages.
 - c. The system must be capable of supporting adequate number of message directories that can be defined at any time.
17. Manage and overcome the limitation that users can not be expected to know how many messages are on a specific message sign to know whether a particular message display can accept another message. .
- a. The system must support a virtual memory scheme for message signs.
 - b. Users must be able to send any number of messages to a given message display.
 - c. The system must monitor the message occupancy rate of the sign and swap messages on and off the sign so that all of the messages can be displayed.
 - d. The system must allow each sign to show up to 20 messages at a time in a rotation cycle.
18. Provide a PC alert or “virtual sign” and “virtual pager” capability that will allow messages that are displayed on message signs and pagers to also be displayed automatically on any Microsoft Windows 95, 98, NT or XP PC’s on the MSD network.
- a. These PC alerts must also be capable of the same message priority, and message-filtering capabilities as LED signs.
 - b. The PC alert software must be capable of residing in the tray section of the task bar on the users PC.
 - c. The software must automatically restart itself if it is terminated by the user.
 - d. The software must automatically restart if it is stopped via the Windows task manager.
19. Provide message cascading where one message launch can cause the automatic launch of other messages to any desired combination of LED signs.
20. Cascaded messages must be able to share common information.
21. Support message variables that can display and pass values between messages shown on LED signs, pagers and PC’s.
22. Support scheduled messaging, scheduled paging, including escalation measures triggered by response or lack of response to messages or pages.
23. Safeguard sensitive information by allowing users to selectively block portions of messages from view on the message displays while providing full content to private devices such as pagers.
24. Support a user database which will allow users to click on names and have messages delivered to the signs located in the person’s location.
25. Support forwarding of messages from one person to another person to facilitate the correct routing of messages to LED signs.
26. Provide a graphical floor plan type user interface that allows the user at a PC to select signs for message delivery by clicking on icons as they appear on floor plan drawings of the buildings.
- a. The graphical floor plan must also support icons for PC’s and wireless buttons, door and window open detectors, motion detectors and smoke detectors.
 - b. The system must graphically display devices that are not communicating.
27. Maintain history files of pages and displayed messages.
- a. The system will provide users with an archive of all messages sent, and an archive of all messages received.
28. Provide users with the ability to automate repeat messaging and repeat paging until desired response is received from other users.
29. Allow messages to be optionally sent to users’ email boxes.
30. Be able to communicate with multiple signs simultaneously.
- a. The system must be able to deliver critical information to all the MSD message signs in less than 30 seconds.
31. Support the scheduling of messages display both on a daily basis and on a multiple or one time basis as needed basis.
32. Interfaces – The system must interface with:



- a. Name of application – Simplex
- b. Owner of application – Owned by MSD, monitored by Sonitrol
- c. Details of interface – Fire Alarm System

E. Development and Testing

1. Application Development

- a. Contractor shall provide a description of its software development/customization methodology

MNS Response: MNS uses an incremental design-code-test development methodology. This methodology has been used for more than 12 years and is applied at an elemental level. This results in highly efficient and low error rate systems development that meets the customer's need at a lower cost. MNS Software Development Standards, Practices and Procedures are available upon request.

- b. Contractor shall be responsible for any required application-related software development/customization.

MNS is not providing custom software, only off-the-shelf software.

- c. Any future system changes or enhancements must be agreeable to, and accepted by the State.

MNS Response: MNS understands and complies. Customer has ability to elect to apply new versions of the product to its production environment as desired.

2. Testing

MNS Response: MNS testing and monitoring of the VisualPA System is built into the product. The system uses messages sent by the server to the signs requesting a response from each sign. The response includes an identifier, unique to each sign. This enables the system to distinguish between signs that are up and operational and those that are offline. Additionally, there is a hardware status screen within the MessageNet software that can be viewed to see which signs are up and operational and which signs are offline. The system can also be configured to notify designated personnel via email that the status of a sign has changed.

- a. Contractor shall provide a description of unit, systems and user acceptance testing.
- b. Contractor shall perform complete and comprehensive system tests in accordance with the system manufacturer installation manuals and recommendations.
- c. Such tests shall occur under the observation of the State or its representative(s).
- d. Contractor is responsible to establish all test environments.
- e. Contractor will test the system in the test environment and provide proof it is operations ready.
- f. If errors are uncovered during testing that are in scope of the systems design documents, Contractor shall make corrections to the application / system and the associated documentation.
- g. System testing shall include, but not be limited to, the following:
 - i. Tests of all functions and features to ensure proper operation;
 - ii. Tests of all applications and optional equipment, including proper integration with the system and one another;
 - iii. Tests of all emergency power equipment;
 - iv. Adjustment of all system components for optimal performance;



- v. Tests to confirm that all circuits and equipment relevant to the system have been installed, are functioning properly and reliably, and are properly balanced to provide optimal operation and performance with the system;
- vi. Tests to confirm that all inter-system connectivity and functionality have been installed and are operating correctly and reliably.
- h. Contractor shall furnish all necessary test equipment and perform all work required to determine or modify the performance of the system to meet the specified functions in an optimal manner.

3. Standards, Rules and Regulations

MNS Response: MNS understands and complies.

- a. Compliance with American Disabilities Act (ADA) for Section 508.
- b. Compliance with State security standards including 128 bit data encryption for all secure data transmissions. Policies and Standards are available on the MDIT public web site: <http://www.michigan.gov/dit>.
- c. Provide appropriate safeguards to protect the confidentiality of information, in compliance with federal and State regulations.
- d. All equipment and recommended equipment must be certified as in compliance with all applicable FCC regulations.

4. System Development

MNS Response: MNS is not providing custom software, only off-the-shelf software

- a. Custom Software Development - Contractor shall:
 - i. Describe their methodology for development and testing of any custom software included in their proposed solution.
 - ii. Perform any required development, modification and testing of custom coding included in their solution.
 - iii. Deliver a fully functional, thoroughly tested, integrated, and documented system that is ready for Acceptance Testing by State staff.
 - iv. Not provide any custom software development that requires or is dependent upon changes to MSD's systems or the existing associated infrastructure.
 - v. Follow State of Michigan Department of Information Technology software and coding standards.
 - 1. Software developed will be non-proprietary and ownership will transfer to the State.
 - 2. State of Michigan acceptance, approval, knowledge transfer, and sign-off are required for the use and incorporation of any custom software used in the Contractor's solution.
- b. Commercial Off-the-Shelf Software
 - i. If commercial off-the-shelf software is used in the development of the overall system solution, software documentation must be provided to the State.
 - ii. Contractor must work with State staff when implementing the COTS product's business logic rules, menu set-up, functionality and features.
 - iii. Contractor will deliver a fully functional, thoroughly tested, integrated, and documented system that is ready for Acceptance Testing by State staff.
 - iv. Off-the-shelf software must integrate with the existing State of Michigan infrastructure and must not require changes to the existing MSD systems.
 - v. State of Michigan acceptance, approval, knowledge transfer, and sign-off are required for the use and incorporation of COTS software used in the development of the Contractor's solution.



- vi. Contractor is responsible for compliance with any and all COTS software licensing requirements up to such time that the licenses transfer to the State.

F. Deployment, Installation and Implementation

1. Deployment and Installation

MNS Response: See MNS Project Plan – Article 1, Attachment D

- a. Contractor is responsible for the deployment and installation of hardware, software, and applications.
 - i. The State will mount message boards/signs.
 - ii. The CAT5 cable will be in place and ready for use for this project.
 - iii. The State will provide the server hardware to be dedicated to the message board system.
- b. Contractor will configure, test and deliver the server to MSD.
- c. The system must be fully functional and ready to “Go-Live” by date agreed to at kick-off meeting.
- d. Contractor shall provide a detailed description of their system deployment strategy.

2. Implementation Plan

MNS Response: See MNS Project Plan – Article 1, Attachment D

- a. Contractor will develop and provide a comprehensive implementation plan for the solution(s) being proposed.
- b. The implementation plan is to be inclusive of the following elements and deliverables:
 - i. An overview of the proposed deployment plan
 - ii. A timeline for the deployment, with appropriate milestones
 - iii. Identification of risks and mitigation strategies
 - iv. Operational approach, logistical approach and migration path
 - v. An implementation staffing plan, adequate to meet all deliverables within the stated timeframes.

G. Training

1. Contractor shall conduct on-site training

MNS Response: MNS understands and complies as defined below and within the project plan on Attachment D.

- a. Two (2) days of on-site computer/server software setup and training days
 - i. This would include 1 day to assist with instructions for the installation
 - ii. A 2nd day to complete the on-site training to Michigan School for the Deaf personnel and answer any final installation questions.
 - iii. The day of training would include ½ day as User Training and a ½ day as Administrative Training.
 - iv. The user would include anyone that MSD would like to attend and having access to the system.
 - v. The administrators are the personnel that would have access to administer or make changes in the system.
- b. Complete user manuals, including available administrative features, shall be provided and included as part of the training.
- c. Contractor shall describe its training services.

H. System Equipment and Warranties

1. System Equipment



- a. Contractor's proposal shall provide a description of the proposed system and its capabilities, to include:

MNS Response: MNS has included, following Article 1, Attachment D, a features and capabilities chart to see what is currently being provided in this contract and expansion capabilities.

- ii. System options, warranties, wiring requirements, and electrical requirements.
- iii. The expansion capabilities of the system.

MNS Response: The system can support thousands of users and thousands of LED signs and thousands of personal communication devices such as PDA's and pagers and phones.

- iv. A listing of the equipment including specifications.

MNS Response: See cut sheet materials included after Article 1, Attachment D, of this document.

- b. General Specifications of Visual Public Address System:

- i. The system utilizes LED-based message displays to provide the required visual public address capability.

MNS Response: MNS product line supports and can provide the variety of signs as described in paragraph below.

- ii. The system supports a line of message displays from three manufacturers.

MNS Response: MNS product line supports and can provide the variety of signs as described in paragraph below.

- 1. These signs can be mixed and matched as needed to satisfy the requirements of the particular application within MSD. For example, outdoor sign and 64-color signs are supported.

- c. Electrical requirements:

- i. All displays use standard 120 VAC power.

MNS Response: Electrical Requirement, for quoted standard LED signs is 70 watts per sign maximum. Power supplies connect to standard 120 volt wall power. The larger sign consumes 180 Watts at 120 VAC.

- d. They draw various quantities of watts depending on the model of message sign.

2. Warranties:

MNS Response: MNS Systems understands and complies.

- a. Message displays must carry a one-year warranty.
- b. Computer hardware must carry a one-year warranty.
- c. Software support and upgrades for one year are included in the system purchase price.



- d. Warranties begin from the date the system is fully deployed and formally accepted by the State.
- e. Any software changes made or introduced by Contractor during the initial warranty period, or subsequent to the initial warranty period, shall be covered to be free of defects for an additional 90-day period.
 - i. Defects identified during the 90-day warranty will be corrected by Contractor at no additional cost to the State.

3. Wiring Requirements for Electronic Signs

MNS Response: MNS understands and complies.

- a. Electronic signs will be connected using IP data network protocol for communication to the MSD LANs.
- b. The system must provide the capabilities to connect up to 200 individually addressable LED signs to the MSD networks.
- c. The wiring required by the system is Category 5 Unshielded Twisted Pair (UTP).
 - i. This cable is to be terminated with 8 wire RJ45 jacks at the sign end.
- d. This technology must support cable runs of up to 300 wire feet from the network connection to LED signs.
- e. The system must provide remote power capability for providing power to the signs via CAT5 cables.
 - i. This capability effectively will reduce the cost of installation negating the need for power cables to be pulled to each sign location where the signs are to be installed.
 - ii. Beyond cost savings, the remote powering will result in a more secure, cleaner, and nicer appearance.

I. Transition

MNS Response: MNS understands and complies.

- 1. At the end of the awarded contract, the Contractor will provide transition assistance of up to 90 days to either the State or the new incoming vendor, including the transfer of any non-proprietary software.

J. Documentation - The Contractor shall:

MNS Response: MNS understands and complies.

- 1. Provide on an ongoing basis updated documentation to reflect hardware, software, configuration and procedural changes
- 2. Provide procedures for change management, testing, problem resolution, troubleshooting and support information.
- 3. For the State site to be used for the system, provide the following specifications:
 - a. Equipment layout (existing and new) including adjunct equipment, etc.
 - b. Dimensions
 - d. Power receptacle requirements

MNS Response: Standard wall plug grounded 120 VAC.

- e. Single-line drawing of electrical connectivity
- f. Electrical and environmental conditions.
- g. Ranges and tolerances (wired and maximum expansion configurations for:
 - i. Power Supply (Volts, Amps)



- ii. Power Receptacles (Volts and NEMA configuration) Standard 120 VAC
- iii. Grounding Requirements
- iv. Power Panel Specifications
- v. BTU Output

MNS Response: Standard LED sign 70 WATTS * 3.4 = 238 BTU/hour

- vi. Humidity
- vii. Operating Conditions (Temperature and Humidity)
- viii. Floor loading
- ix. Front, rear, side access
- h. Include complete documentation of system and application products, annotated application source code (in both paper and electronic format), and any other system or application products.
- i. This documentation should allow the State to maintain or modify the system delivered under this contract

K. System Configuration

MNS Response: MNS understands and complies.

1. Contractor shall document and provide end-to-end system configuration diagrams and descriptions, including all provided and recommended hardware, software, and interfaces for the proposed production environment.
2. The documentation must include configuration descriptions, configuration management flows and controls for development and testing environments.

L. Maintenance and Support

MNS Response: MNS understands and complies.

1. The Contractor will provide on-going services for system changes or new application development that the State might request within the capabilities of the equipment and software.
 - a. The Contractor's response must include pricing for all proposed services, whether required or optional.
 - b. The Contractor must include a contractual turn-around time for small, medium and complex changes and indicate changes are included in the on-going support and maintenance costs, or priced separately at an hourly rate.
 - c. Contractor shall provide options for telephone, fax, e-mail and internet access for technical support of State-supported functions of the system and the resolution of system issues.
 - i. Such support shall be provided during normal business hours (Monday through Friday), not including State holidays.
 - ii. The Contractor shall maintain a log and track the resolution of all State-initiated support requests.
 - d. Contractor shall describe:
 - i. Its support services.
 - ii. Its hardware and software upgrade and replacement strategies due to version changes or obsolescence.
 - iii. How requests for system modifications will be handled.
 - iv. How bug fixes and software errors will be reported and resolved.
 - e. The State and the Contractor will jointly agree on a mechanism to keep the State's Call Center advised regarding issues affecting system availability and/or performance.



- f. Contractor shall provide systems maintenance and identify associated costs for the duration of the contract, with clear identification of what is and what is not covered.

2. Service Levels (Quality Requirements) –

MNS Response: MNS has included, after Article 1 Attachments E, the MNS Standard SLA. MNS could foresee problems that may be the result of interactions of MessageNet provided equipment with equipment that is provided by MSD, often delaying the resolution of the problem outside of 4 hours. MNS provides its standard Maintenance and support package that is provided to all other Schools for the Deaf serviced by MNS.

- a. All Severity One problems shall be resolved within 4 hours from the time the problem was first reported to Contractor.
- I. Severity One problems are defined as the system is out or not functioning.
- b. The system (including all message boards/signs) is an emergency notification system and must be available 99.9% of the time 24 hours a day, everyday of the year. This will be installed in our residential buildings (dorm). Half of our students stay here from 4 PM on Sunday to Noon on Friday. Staff stays here even while students are not here. We also house some interns on campus.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

Contractor will provide competent staff, as evidenced by resumes, in sufficient number to meet project objectives and schedule. All personnel provided by the Contractor shall be subject to the rules, regulations, and policies of MDIT, MDE, and the Michigan Department of Civil Service. The Contractor shall replace all employees whose work was found to be unsatisfactory within five (5) working days of notification from the State.

The work is to be performed, completed, and managed at the Michigan School for the Deaf located at 1667 West Miller Road, Flint, Michigan 48503.

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

- Work space
- Desk
- Access to copiers and fax machine

Work hours are Monday through Friday, 7:15am to 4:30pm unless otherwise approved by the project manager.

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

MNS Response: MNS understands and complies.



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 this contract will actually perform the assigned work. Any staff substitution must have the prior approval of the State.

MNS Response: See key personnel and resume information on Article 1, Attachment B.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The State Project Team will consist of: an Agency Project Manager, MDIT Project Manager, Building Manager, Contract Administrator, and Building Principal. The Michigan Department of Education (MDE) and MDIT will be responsible for this project. MDIT will be responsible for the State's infrastructure and work together with the Contractor in determining the system configuration.

MNS Response: MNS understands and agrees to the separation of roles and responsibilities

The State Project Team will provide the following services:

- Approve the project schedule
- Authorize modifications for scope, resources, and budget of the project
- Ensure senior management commitment to the project
- Act as a final arbiter on proposed changes that significantly affect the business interests of the State
- Resolve project issues in a timely manner
- Review project plan, status, and issues
- Resolve deviations from project plan
- Provide acceptance sign-off
- Utilize change control procedures
- Ensure timely availability of State resources
- Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.



The State's and Agency's Project Managers will work together to provide the following services:

- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- Facilitate coordination between contractors
- Facilitate communication between different State departments
- Resolution of project issues
- Escalation of outstanding/high priority issues
- Utilize change control procedures
- Conducting regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Documentation and archiving of all important project decisions

Issues shall be escalated for resolution from level 1 through level 4, as defined below:

Level 1 – Business leads

Level 2 – Project Managers

Level 3 – State Project Team

Level 4 – Client Service Director

In addition, the following State personnel/resources may be required at stages of the project. The Contractor's Project Manager will make every effort to provide the State with advance notice of when those services may be required.

- Systems Analyst
- Application Administrator
- User Implementation Coordinator
- Network Administrator
- Database administrator
- Remote access to test database environment

The Michigan Dept. of Information Technology is responsible for the administration of the services within the contract. MDIT shall provide a program manager as a contact for all issues pertaining to the execution of services under the contract. As of the effective date for contract commencement the MDIT Program Manager shall be:

Linda Pung

Client Service Director

Michigan Department of Information Technology

Lansing, MI 48913

Phone: 517-241-2368

E-mail: pungle@michigan.gov

MDIT shall provide a Contract Administrator whose duties shall include but not be limited to supporting the management of the Contract. The Contract Administrator shall be:

Ann Lindberg

Michigan Department of Information Technology

Cadillac Place, Suite #9-350

3032 W. Grand Boulevard

Detroit, MI 48202



Phone: (313)456-3218
E-mail: lindberga@michigan.gov

1.203 OTHER ROLES AND RESPONSIBILITIES

None

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

A. Orientation Meeting

MNS Response: MNS understands and agrees to orientation meeting requirements.

Upon ten (10) calendar days from execution of the Contract, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract.

1. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor.
2. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

B. Performance Review Meetings

MNS Response: MNS understands and complies - recommend teleconference on this project for status of project updates.

1. The State will require the Contractor to attend monthly meetings, at a minimum, to review the Contractor's performance under the Contract.
2. The meetings will be held in Lansing, Michigan, or by teleconference, as mutually agreed by the State and the Contractor.
3. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

C. Project Control

1. The Contractor will carry out this project under the direction and control of the MDIT and MSD.
2. The DIT Project Manager will manage the project in accordance with the PMBOK® (Project Management Body of Knowledge from the Project Management Institute) and the state's Project Management Methodology (PMM). Methodology is available at www.michigan.gov/projectmanagement.

MNS Response: MNS understands and complies. See Project Plan – Article 1, Attachment D. MNS will provide its project documents as MS Word documents. It is anticipated that the State's assigned Project Manager will load this information into the PMM systems. MNS will work with the states project manager and the School project manager to ensure accurate inclusion/conversion of documents.

- a. Contractor will use an automated tool for planning, monitoring, and tracking the Contract's progress and the level of effort of any Contractor personnel spent performing Services under the Contract.
- b. Contractor shall use automated project management tools, as reasonably necessary, in order to perform the cited Services, which shall include, through the end of the Contract, the capability to produce:
 - 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) calendar days, updated semi-monthly).
 - iii. Updates must include actual time spent on each task and a revised estimate to complete.
 - iv. Graphs showing critical events, dependencies and decision points during the course of the Contract.
- ii. 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 standard is described with reasonable detail in the Statement of Work.

1.302 REPORTS

Reporting formats must be submitted to the State's Program Manager for approval within twenty (20) business days after the effective date of the contract. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract.

MNS Response: MNS agrees to have discussion of formats, etc. within 20 business days after the effective date of contact.

Reports shall include, at a minimum:

- Weekly Project status
- Updated project plan
- Summary of activity during the report period
- Accomplishments during the report period
- Deliverable status
- Schedule status
- Action Item status
- Issues
- Change Control
- Repair status
- Maintenance Activity

1.4 Project Management

1.401 ISSUE MANAGEMENT

MNS Response: MNS understands and complies

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

Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's 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

MNS Response: MNS understands and complies. See Project Plan – Article 1, Attachment D MNS will provide its project documents as MS Word documents. It is anticipated that the States assigned Project manager will load this information into the PMM systems. MNS will work with the states project manager and the School project manager to ensure accurate inclusion/conversion of documents.

Risk and Issues are not the same. Risks are those things that you can assume or anticipate in a project. Issues are imminent threats or things that have already occurred. Contractor will monitor risks associated with this scope of work throughout the duration of the contract. Contractor will utilize the State's project management risk templates and guidelines. Initial risks should be identified at project start-up and reported to the State's Project Manager.

Quality of work and meeting deadlines are of the essence for these services. Therefore, the risk assessment shall be reviewed, at minimum, at project startup and during the startup for each deliverable and shall include, but not limited to the following:

- Reviewing the project plan and timelines to ensure resources are, or will be, available.
- Identify deadlines for tasks to allow sufficient time to produce deliverables.

1.403 CHANGE MANAGEMENT

Contractor may not begin work on any contract deliverables until authorized by the State project manager to do so.

MNS Response: MNS understands and complies

Any changes to timelines or project deliverables must be proposed and approved by the State's Project Manager, prior to the change being worked on by Contractor. Contractor shall utilize the State's Project Management Change Management templates and guidelines.

Alterations to the Scope of Work for Fixed Price Deliverables

If either of the parties wishes to alter the Requirements or the Statement of Work the following change management procedure will apply:

MNS Response: MNS understands and complies

- a. The person who requests the change (the Originator) will forward to the State's Project Manager, a Change Control Request Form. Include a priority/classification on the request. This form must be completed as much as possible. It may be necessary at times if a lot of detail is required to include a Statement of Work (SOW).
- b. The State's Project Manager will consult with the State's stakeholders, if necessary.
- c. The State's Project Manager will send the Change Control Request (and SOW if included) to Contractor.
- d. Contractor will determine a cost and estimated time to complete and send this information back to the State's Project Manager.
- e. The State's Project Manager will negotiate the final price with Contractor.
- f. The State's Project Manager will send the Change Control Request to the MDIT Program Manager for approval.



- g. If a proposed contract change is approved by the State Project and Program Managers and the MDIT Contract Administrator, the Contract Administrator will submit a request for change to the Department of Management and Budget, Acquisition Services Buyer, who will make recommendations to the Director of Acquisition Services regarding ultimate approval/disapproval of a change request.
- h. 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.
- i. If the change is not authorized, the change will not be implemented.
- j. If the change is authorized, the State's Project Manager will send the signed Change Notice (and SOW, if it was included), along with the Contractor's quote to the Contractor and requestor. The State's Project Manager will track the costs of all changes.
- k. Upon approval of the Change Control Request, work can begin at the scheduled time by the Contractor.

Process to Request Rated Services

MNS Response: MNS understands and complies.

- All rated services will be approved and prioritized by the State's Program Manager before the work commences.
- a. The person who requests the rated services (the Originator) will forward to the State's Project Manager, a Service Request Form. Include a priority/classification on the request. This form must be completed as much as possible. It may be necessary, where detail is required, to include a Statement of Work (SOW).
 - b. The State's Project Manager will consult with the MDIT Project Manager regarding integration of the change.
 - c. The State's Project Manager will send the Service Request (and SOW if included) to the Contractor.
 - d. The Contractor will determine an estimate of hours and cost to complete and send this information back to the State's Project Manager.
 - e. The State's Project Manager will negotiate the final estimated hours with Contractor.
 - f. The State's Project Manager will send the Service Request to the State's Program Manager for approval.
 - g. If a proposed contract change is approved by the State Project and Program Managers and the MDIT Contract Administrator, the Contract Administrator will submit a request for change to the Department of Management and Budget, Acquisition Services Buyer, who will make recommendations to the Director of Acquisition Services regarding ultimate approval/disapproval of a change request.
 - h. 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.
 - i. If the request is not authorized, the change will not be implemented.
 - j. If the request is authorized, the State's Contract Administrator will send the signed Service Request and Contract Change Notice (and SOW, if it was included), along with the Contractor's hours to the Contractor and requestor. The State's Project Manager will track the hours and costs of all service requests.
 - k. Upon approval of the Service Request, work can begin at the scheduled time by the Contractor.

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

1.5 Acceptance

1.501 CRITERIA

The following criteria will be used by the State to determine acceptance of the deliverables provided under this contract.



- A. Document Deliverables - Documents include, but are not limited to plans, design documents, project schedules, user guides, and manuals.

MNS Response: MNS understands and complies

1. Documents are dated and in electronic format, compatible with State of Michigan software.
 2. Requirements documents are reviewed and updated throughout the development process to assure requirements are delivered in the final product.
 3. Draft documents are not accepted as final deliverables.
 4. The documents will be reviewed and accepted in accordance with the requirements of the Contract.
 5. MDE and MDIT will review business documents within 30 days of receipt.
 - a. Approvals will be written and signed by the State Project Managers.
 - b. Unacceptable issues will be documented and submitted to the Contractor.
 - c. After issues are resolved or waived, the Contractor will resubmit documents for approval within 30 days of receipt.
 6. MDIT and MDE will review technical documents within 30 days of receipt.
 - a. Approvals will be written and signed by State Project Managers with assistance from MDIT.
 - b. Unacceptable issues will be documented and submitted to the Contractor.
 - c. After issues are resolved or waived, the Contractor will resubmit documents for approval within 30 days of receipt.
 7. State Project Managers will review project documents within 30 days of receipt.
 - a. Approvals will be written and signed by both Project Managers.
 - b. Unacceptable issues will be documented and submitted to the Contractor.
 - c. After issues are resolved or waived, the Contractor will resubmit documents for approval within 30 days of receipt.
- B. System Deliverables - System includes, but is not limited to, hardware and software products and peripherals.

MNS Response: MNS understands and complies

1. The system will be reviewed and accepted in accordance with the requirements of the contract.
2. The State will review the system within 30 days of receipt for acceptance of functionality, usability, installation, performance, security, standards compliance, and operation.
 - a. Approvals will be written and signed by the State's Project Managers.
 - b. Unacceptable issues will be documented and submitted to the Contractor.
 - c. After issues are resolved or waived, the Contractor will resubmit software for approval within 30 days of receipt.

1.502 FINAL ACCEPTANCE

The following criteria will be used by the State to determine Final Acceptance of the project.

MNS Response: MNS understands and complies

1. All documents, the system and services are delivered and accepted by the State in accordance with the requirements of the contract.
2. The system provides the functionality required, meeting the performance standards.



1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Contractor must identify all information related, directly or indirectly, to the Contractor's proposed charges for services and deliverables including, but not limited to, costs, fees, prices, rates, bonuses, discounts, rebates, or the identification of free services, labor or materials (Article 1, Attachment F).

MNS Response: MNS Complies in Article 1, Attachment F

Contractor shall provide a breakdown of all costs along with a brief narrative explaining each cost basis as follows:

- a. Purchase costs
- b. Licensing costs
- c. All installation and site preparation costs.
- d. Systems integration costs
- e. Conversion costs
- f. Documentation and training costs
- g. Start-up and Initialization - Consist of all preliminary, one-time costs to the State including, but not limited to, investigative, set-up, system initialization, conversion activities, workload migration activities, and network implementation, etc.
- h. Ongoing Operations - Consist of all recurring monthly cost to the State including, where applicable but not limited to, facilities, hardware, software, operations, scheduling and security administration services, network equipment and circuits, etc. SNA circuit monitoring and device support should be identified as a separate cost item.
- i. Maintenance costs, including preventative maintenance and technical support
- j. Anticipated upgrade or revision costs after initial installation
- k. Options and/or Additions - Consist of any proposed optional services offered by the Contractor.
- l. Discounts and rebates
- m. All other costs not itemized above.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW

A. Other Vendors

The State has and/or may contract with other entities to perform technical services or provide other equipment and software to work with the items provided under this contract. The Contractor agrees to work with these other entities and provide them necessary technical information and required support to accomplish the efforts required by the contract with the State.

MNS Response: MNS understands and complies, however working with other vendors specified by the State may cause delays that are outside the scope of control of MNS.



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

MNS Response: MNS acknowledges the general terms and conditions and agrees to the terms stated within Article 2. Special notation has been noted in section 2.180 that a certificate of insurance will be provided as a condition of the contract.

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 attached as **XX**.
- 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 B**, as Key Personnel.
- k. “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.
- l. “Services” means any function performed for the benefit of the State.
- m. “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- n. “Subcontractor” means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
- o. “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

2.012 Attachments and Exhibits

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



2.013 Statements of Work

- a. The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.
- b. Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
 - a description of the Services to be performed by Contractor under the Statement of Work;
 - a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
 - a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
 - all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
 - a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
 - a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
 - any other information or provisions the parties agree to include.
- c. Reserved.
- d. The initial Statements of Work, as of the Effective Date, are attached to this Contract.

2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Office of Acquisition Services ("OAS") and Department of Information Technology (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:

Lisa Morrison
Office of Acquisition Services
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email morrisonl1@michigan.gov
Phone (517) 241-2005

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:

Ann Lindberg
Michigan Department of Information Technology
Cadillac Place, Suite #9-350
3032 W. Grand Boulevard
Detroit, MI 48202
Phone: (313)456-3218
E-mail: lindberga@michigan.gov

2.016 Project Manager

The following individual will oversee the project:

Linda Pung
Client Service Director
Michigan Department of Information Technology
Lansing, MI 48913
Phone: 517-241-2368
E-mail: pungle@michigan.gov

2.020 Contract Objectives/Scope/Background

2.021 Background

See Article 1

2.022 Purpose

See Article 1

2.023 Objectives and Scope

See Article 1

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 four (4) 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 one (1) additional one (1) year period. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel

2.041 Contractor Personnel

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



- ii. Key Personnel shall be dedicated as defined in **Attachment A** 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 E** 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.

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

2.053 Adherence to Portal Technology Tools

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

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

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

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



2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see http://www.michigan.gov/documents/PCAcceptableUsePolicy1460_1_72034_7.pdf. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.060 Deliverables

2.061 Ordering

- a. Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.
- b. DIT will continue to oversee the use of this Contract by End Users. DIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. DIT may also designate, in writing, some services as non-delegated and require DIT review and approval before agency acquisition. DIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

2.062 Software

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

2.063 Hardware

N/A

2.064 Equipment to be New and Prohibited Products

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



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

2.070 Performance

2.071 Performance, In General

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

2.072 Time of Performance

- a. Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- b. Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.
- c. If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

2.073 Liquidated Damages

The parties acknowledge that a system failure 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 system failure 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 system failure occurs, then the State shall be entitled to collect liquidated damages in the amount of \$500.00 per day for each day Contractor fails to remedy the system failure.



2.074 Bankruptcy

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

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

2.075 Time is of the Essence

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

2.076 Service Level Agreements (SLAs)

- a. SLAs will be completed with 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 Responsibilities

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

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

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

2.082 Delivery of Deliverables

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



2.083 Testing

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

2.084 Approval of Deliverables, In General

- a. All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.
- b. The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.
- c. Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.
- d. The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.
- e. If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense



of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure such breach. Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

- f. The State, at any time and in its reasonable discretion, may halt the testing or approval process if such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

2.085 Process for Approval of Written Deliverables

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

2.086 Process for Approval of Services

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

2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) continuous Business Days for a Physical Deliverable). The State agrees to notify Contractor in writing by the end of the State



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

2.088 Final Acceptance

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

2.090 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 (**Article 1, Attachment XX**). The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

b. Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1, Attachment XX** unless specifically identified in an applicable Statement of Work.

c. Services/Deliverables Covered

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

d. Labor Rates

All time and material charges will be at the rates specified in **Article 1, Attachment XX**.

2.092 Invoicing and Payment Procedures and Terms

a. Invoicing and Payment – In General

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



- ii. Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment XX**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.
 - iii. Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.
- b. Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)
The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.
- c. Out-of-Pocket Expenses
Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0.1607.7-150-9141_13132---.00.html for current rates.
- d. Pro-ration
To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.
- e. Antitrust Assignment
The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
- f. Final Payment
The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation



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

2.094 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 D** (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.

The Contractor will identify a Contract Administrator. 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 shall be identified as a Key Personnel subject to the State's interview and approval.

The Contractor will provide a project manager to work closely with the designated personnel from the State to insure a smooth transition to the new system. The project manager will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State.



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

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

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 that may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.
- ix. set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

b. Meetings.

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



2.104 System Changes

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

2.105 Reserved

2.106 Change Requests

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

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

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

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

a. Change Requests

i. State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

ii. Contractor Recommendations

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



- iii. Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.
- iv. By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
- v. No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Acquisition Services.
- vi. If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools

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



2.110 Records and Inspections

2.111a Records and Inspections

- 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.
- 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.
- 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/dit/0,1607,7-139-34305-73760--00.html>.

Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

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

2.152 Confidentiality

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

2.153 Protection of Confidential Information

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

**2.154 Exclusions**

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

2.155 No Implied Rights

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

2.156 Remedies

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

2.157 Security Breach Notification

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

2.158 Survival

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

2.159 Destruction of Confidential Information

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



2.160 Proprietary Rights

2.161a Ownership

Ownership of Work Product by State. All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

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

2.162 Reserved

2.163 Rights in Data

- a. The State will be and remain the owner of all data made available by the State to Contractor or its agents, Subcontractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Contractor, nor will any employee of Contractor other than those on a strictly need to know basis have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.
- b. The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable information. Other material developed and provided to the State shall remain the State's sole and exclusive property.



2.164 Ownership of Materials

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

2.165 Standard Software

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

2.166 Pre-existing Materials for Custom Software Deliverables

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

2.167 General Skills

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

2.170 Warranties And Representations

2.171 Warranties and Representations

The Contractor represents and warrants:

- a. It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.
- b. The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.



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



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

2.172 Software Warranties

a. Performance Warranty

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

b. No Surreptitious Code Warranty

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

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

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

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

c. Calendar Warranty

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

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive



data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

d. Third-party Software Warranty

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

2.173 Equipment Warranty

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

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Within three (3) business days of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

All warranty work shall be performed on the State of Michigan worksite(s).

2.174 Physical Media Warranty

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

2.175a 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

MNS Response: MNS will provide a certificate of insurance as a condition of the reward

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

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



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

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

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

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

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

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

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

1. Commercial General Liability with the following minimum coverage:

- \$2,000,000 General Aggregate Limit other than Products/Completed Operations
- \$2,000,000 Products/Completed Operations Aggregate Limit
- \$1,000,000 Personal & Advertising Injury Limit
- \$1,000,000 Each Occurrence Limit
- \$500,000 Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSURED(S) 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 INSURED(S) on the vehicle liability certificate. The Contractor



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

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

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

4. Employers liability insurance with the following minimum limits:

\$100,000 each accident

\$100,000 each employee by disease

\$500,000 aggregate disease

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

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

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

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

b. Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of



Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

c. Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.190 Indemnification

2.191 Indemnification

a. General Indemnification

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

b. Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

c. Employee Indemnification

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in



provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

d. **Patent/Copyright Infringement Indemnification**

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

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

Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

2.192 Continuation of Indemnification Obligations

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

2.193 Indemnification Procedures

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

- a. After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to



defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

- b. If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.
- c. If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

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

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

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



2.202 Excusable Failure

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

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

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

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

2.203 Disaster Recovery

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

2.210 Termination/Cancellation by the State

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



2.211 Termination for Cause

- a. In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.
- b. In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.
- c. In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.
- d. In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

2.212 Termination for Convenience

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

2.213 Non-Appropriation



- a. Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).
- b. If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.
- c. In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.214 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

2.215 Approvals Rescinded

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

2.216 Rights and Obligations Upon Termination

- a. If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the



termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

- b. In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- c. Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.217 Reservation of Rights

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

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed ninety (90) days. These efforts shall include, but are not limited to, the following:

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



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

2.219 State Transition Responsibilities

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

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

2.220 Termination by Contractor

2.221 Termination by Contractor

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

2.230 Stop Work

2.231 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms



and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

2.232 Cancellation or Expiration of Stop Work Order

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

2.233 Allowance of Contractor Costs

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

2.240 Reserved

2.250 Dispute Resolution

2.251 In General

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

2.252 Informal Dispute Resolution

- a. All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Acquisition Services, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
 - i. The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and



germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

- ii. During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
- iii. The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- iv. Following the completion of this process within sixty (60) calendar days, the Director of Acquisition Services, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

- b. This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.
- c. The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

2.253 Injunctive Relief

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

2.254 Continued Performance

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



2.260 Federal and State Contract Requirements

2.261 Nondiscrimination

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

2.262 Unfair Labor Practices

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

2.263 Workplace Safety and Discriminatory Harassment

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

2.270 Litigation

2.271 Disclosure of Litigation

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



provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

- b. Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:
 - i. the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
 - ii. whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:
 - A. Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and
 - B. Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.
- c. Contractor shall make the following notifications in writing:
 - i. 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.
 - ii. 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.
 - iii. Contractor shall also notify Acquisition Services within thirty (30) days whenever changes to company affiliations occur.

2.272 Governing Law

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

2.273 Compliance with Laws

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

2.274 Jurisdiction

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

2.280 Environmental Provision



2.281 Environmental Provision

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

- a. The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor’s Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.
- b. Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State’s convenience.
- c. Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.
- d. If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

2.290 General



2.291 Amendments

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

2.292 Assignment

- a. Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.
- b. Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; Order of Precedence

- a. The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.
- b. In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 Headings

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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



2.296 Notices

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

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

With a copy to:

State of Michigan
Department of Information Technology
Attention: Ann Lindberg
Cadillac Place, Suite #9-350
3032 W. Grand Boulevard
Detroit, MI 48202
E-mail: lindberga@michigan.gov

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

2.297 Media Releases and Contract Distribution

- a. Media Releases
Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.
- b. Contract Distribution
Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Acquisition Services.

**2.298 Reformation and Severability**

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

2.299 Consents and Approvals

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

2.300 No Waiver of Default

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

2.301 Survival

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

2.302 Covenant of Good Faith

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

2.303 Permits

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

2.304 Website Incorporation

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

2.305 Taxes

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



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

2.306 Prevailing Wage

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

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

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

2.307 Call Center Disclosure

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

2.308 Future Bidding Preclusion

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

2.310 Reserved

2.320 Extended Purchasing

2.321 MiDEAL

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community,



or junior college. A current listing of approved program members is available at: <http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

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

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

2.322 Reserved

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements

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

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

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

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

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

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



Article 1, Attachment A
Organizational Chart, including Key Personnel

Kendra Geis – Contract Contact and MessageNet Information Contact

Phone: 317-566-1677 ext 101

Email: Kendra@MessageNetSystems.com

Kendra Geis will be sole contact for your company to receive the Contract and authorized to expedite any proposed contract with the State. Kendra will also be the contact for any financial, past history or company information that may be required.

Steve Ligon – Project Manager and Technical Lead

Phone: 317-566-1677 ext 210

Email: SLigon@MessageNetSystems.com

Steve will be the key contact after the signing of the contract. Will organize the 1st meeting for the final project plans, implantation, training and final check out of the system. Steve will also be responsible for monthly meeting defined in the project.



Article 1, Attachment B

KEY PERSONNEL RESUME FORM

Proposed Resource Name:	Steve Ligon	
Proposed Role:	<i>Project Manager & Technical Lead</i>	
Associated with: (check one):	Prime Bidder	Subcontractor
Percentage of Time to be allocated to Project	25% off-site, 100% on-site 100%	

List the skills and experience that qualify the individual for the duties and responsibilities on this project for the proposed role. Please provide the year(s) the experience was acquired. The experience requirements detailed in the contract are restated as follows:

Requirement	Bidder's Response
Minimum 5 years PM experience in IT projects	Complies per experience on resume
Project management experience in IT projects whose scope included the development & deployment of a Visual PA system.	Complies – has over the last 6 months acted as project manger over 3 VisualPA projects.
Possession of professional certification in Project Management	No Certification of Project Management

List client references for work used to meet the requirements stated above, and all projects the proposed resource has worked on in the last three (3) years. A minimum of three (3) references are required. By submission of this information, the bidder and identified key person authorize the State of Michigan to contact references and previous employers provided to verify the accuracy of the information. Provide the identified information for each:

Start Date: November 2005	End Date: March 2006
Client/Project: Ball Memorial Hospital, Dlynn Melo, dmelo@chsmail.org , MessageNet Systems implementation with Visual PA	
Employer: MessageNet Systems, Inc.	
Title/Percentage of time: 20% off-site, 100% on-site	
Description: Project Management, coordination, configuration, installation and training	

Start Date: December, 2005	End Date: March, 2006
Client/Project: Western Pennsylvania School for the Deaf, Rich Blecher, rblecher@wpsd.org , MessageNet Systems implementation with Visual PA	
Employer: MessageNet Systems, Inc.	
Title/Percentage of time: 25% off-site, 100% on-site	
Description: Project Management, coordination, configuration, installation and training	

Start Date: January, 2006	End Date: Scheduled for July 2006
Client/Project: St. Francis de Sales School for the Deaf, Ed McCormack, emccormack@sfdesales.org , MessageNet Systems implementation with Visual PA	
Employer: MessageNet Systems, Inc.	
Title/Percentage of time: 20% off-site. Pending on-site installation.	
Description: Project Management, coordination, configuration, installation and training	



Certifications/Affiliations: *Description, including relevant dates*

The Bidder must submit a letter of commitment, signed by the identified resource, stating their commitment to work for the bidder/subcontractor on this project contingent on award of the bid.

MessageNet agrees to commit Steve Ligon or current project manager to the VisualPA system being proposed over the 4 year period.

Kendra Geis
Business Manager
MessageNet Systems



Steven W. Ligon
5534 Crown Woods Circle
Indianapolis, Indiana 46224
(317) 590-0295

EMPLOYMENT HISTORY

MessageNet Systems

Director of Services

November 2005 to Present

Indianapolis, IN

Develop and manage the customer service department. Define product offerings, develop implementation plans, determine pricing and forecast staffing requirements. Project manage the implementation and installation of MessageNet Systems servers, software, and associated hardware components. Install MessageNet Systems servers, software, and associated hardware on-site and customer premise. Troubleshoot server, system and hardware issues with customer and vendor contacts. Identify areas for further product development, fabricate and deploy solutions for product installation challenges in unique environments. Participate in sales meetings and product demonstrations for customers, prospective customers, and resellers. Provide on-site system training to customers and resellers.

The Ligon Group

Information Technology Consultant

January 2001 to November 2005

Indianapolis, IN

Utilize over 17 years of experience in the telecommunications industry in Network Operations, Project Management, and Network Engineering to help small businesses realize the full potential of their communications and computer resources. Provided needs assessment, cabling, router/hub installation and resource sharing for LAN development and installation. Assisted with RFI/RFP development and analysis, project managed the implementation and installation of telecommunications services and provided consultation and implementation of high speed internet access including T1, Fractional T1, DSL and Cable Modem. Installed and configured Norton Anti-Virus Corporate Edition and Symantec Web Security across campus networks.

BlueStar Communications

Channel Manager

July 2000 to September 2000

Indianapolis, IN

Managed the alternate channel sales program for Indiana, Kentucky and Michigan. Identified reseller opportunities, initiated dialogue, developed a working relationship and participated in agreement negotiations. Provided management and support to sales personnel in defined area of responsibility. Developed and prepared effective reporting mechanisms detailing contacts, sales, and projections.

Sprint

Senior Network Engineer

August 1998 to July 2000

Indianapolis, IN

Assess prospective customer's technical and application environment and provide a Wide Area Network solution. Provide overlay sales design and engineering support for complex data and integrated solutions. Coordinate internal consulting engineering and vendor resources in the design development phase. Generate and evaluate network performance reports and recommend enhancements to existing customer networks. Prepare and present executive level briefings on products, services, and proposed solutions. Local Sprint office LAN Administrator.

Senior Systems Engineer/Systems Engineer

Indianapolis, IN

July 1994 to August 1998

Project managed the installation and activation of Sprint data services to include Frame Relay, Internet, Intranet, and X.25. Provided Service Quality Reviews to customers detailing the status of their network in terms of implementation, availability,



and trending. Developed and followed through on corrective action plans by focusing resources within Sprint, LEC's and customer organizations. Provided datascop support on customer sites and interrogated various Sprint on-line database and software tools to establish root causes, to implement fix actions and to drive other fix agencies towards problem resolution. Performed structured training seminars for junior engineers. Local Sprint office LAN Administrator.

Sprint, continued

***Frame Relay Network Control Center
January 1993 to July 1994***

Reston, VA

Monitored and controlled the Frame Relay Network utilizing a Data General based Network Health platform and Unix operating system. Provided technical and procedural assistance to customers on both a proactive and reactive basis in fault isolation on system and circuit outages. Utilized the DCS system and various other diagnostic tools to isolate and resolve system and circuit failures on the Frame Relay Network, to include private lines, CSU/DSU's, telco interfaces, cable systems and distribution frames.

BBN Communications

***Network Controller
December 1991 to January 1993***

Arlington, VA

Monitored and controlled wide area and local DOD Packet Switching, T1 and gateway networks utilizing Unix operating systems and Network Utility programs. Prepared and tracked trouble reports in an environment that demanded timely and accurate documentation of all steps taken during fault isolation.

United States Air Force

***Communications/Computer Systems Control Specialist
October 1987 to October 1991***

Sembach AB, Germany

Performed various analog and digital quality control tests to maintain tolerance levels as well as basic troubleshooting procedures on VF and digital circuits. Acted as Quality Assurance NCO for the Communications Squadron. Duties included trending, ticket analysis and training junior personnel.

EDUCATION

Licensed Real Estate Broker. Management skills classes at IUPUI. Four years in the United States Air Force as a Tech Controller. Certificates of training in Communications/Computer Systems Control, Introductory and Advanced Cisco Router Configuration, Frame Relay, TCP/IP, Network Operations, and various other telecommunications disciplines. Graduated third out of 200 students from George Washington H.S., Indpls., IN, class of 1986.

Personal References:

Roscoe Ailiff
704-675-5158
roscoe@ailiff.com
Personal friend and professional colleague
U.S. Air Force and Sprint Engineering

Rodney Seaman
317-490-9098
rsc@rcse.net
Personal friend and professional colleague
Sprint Engineering and The Ligon Group

Lejo Harmeson
317-291-7000
lejo@wallandassociates.com
Personal friend and real estate broker
Wall & Associates



Article 1, Attachment C
Deliverables

Phase I	Description	Quantity
	MN780L - Color 1 Line 2", 14 Char, 27.5"L by 4.25"H	97
	H108 - 1 Port Sign Controller	8
	H114 - 16 Port Sign Controller	6
	H170 - Ethernet to RS232 Adapter (fire alarm interface)	1
	H500 - Remote Power - Complete Kit*	97
	S090- MessageNet Server Software (Unlimited Users)	1
	S100L - Standard Sign (MN780L) Software License	97
	S135 - Fire Panel Interface Software License	1
Phase II	MN780L - Color 1 Line 2", 14 Char, 27.5"L by 4.25"H	24
	H108 - 1 Port Sign Controller	0
	H114 - 16 Port Sign Controller	2
	H500 - Remote Power - Complete Kit*	24
	S100L - Standard Sign (MN780L) Software License	24
Phase III	MN780L - Color 1 Line 2", 14 Char, 27.5"L by 4.25"H	9
	H108 - 1 Port Sign Controller	0
	H114 - 16 Port Sign Controller	1
	H500 - Remote Power - Complete Kit*	9
	S100L - Standard Sign (MN780L) Software License	9
Phase IV	MN780L - Color 1 Line 2", 14 Char, 27.5"L by 4.25"H	12
	MN16160A - Color 2 Line 5", 16 Char, 52"L by 7.7"H	1
	H108 - 1 Port Sign Controller	0
	H114 - 16 Port Sign Controller	1
	H500 - Remote Power - Complete Kit*	12
	S100L - Standard Sign (MN780L) Software License	12
	S103 - 2 Line Sign Software License	1

The H500 units are devices designed and manufactured by MessageNet Systems to meet the unique power requirements of LED signage. Each remote power kit includes a power adapter, DC/DC converter and necessary couplers to provide power and data across the customer installed Cat5e cable run from the closet to the sign location. Cable runs must be no greater than 300 feet from the closet to the sign location.

The H500 Remote Power kit includes the head end and remote end device. One cord for the power supply that powers the sign. One cord for each sign using a single port sign controller.



Article 1, Attachment D

MNS Preliminary Project Plan

Project Management Lead and Technical Lead roles will be handled by MDIT/MSD staff personnel. All required reporting mechanisms set forth in the contract will be the responsibility of MDIT/MSD personnel to complete. Time lines will be established, monitored and controlled by MDIT/MSD personnel with the exception of the required time set forth in sections II-a and III-a for MessageNet Systems to provide for hardware delivery and final installation/implementation scheduling.

- I. Stage One – Kick-off meeting (to be scheduled at a mutually agreed upon time after date of signed contract). This meeting will be held on-site at the school.**
 - a. Kick-off Meeting Goals
 - i. Identify key points of contact for MessageNet Systems and MDIT/MSD
 - b. Establish meeting schedules for project status updates and follow-up.
 - c. Complete a walk-through of the school
 - d. Identify project networking requirements to include:
 - i. Required IP Address information
 - ii. Firewall changes to allow remote access for MessageNet Systems to remotely access the dedicated server for troubleshooting and customer assistance.
 - iii. Network cabling.
 - iv. Power.
 - e. Provide documentation and diagrams related to sign mounting and remote power kit installation.
 - f. Provide documentation and diagrams related to fire panel interface connection.
 - g. Identify scope of training and personnel to be trained.
 - h. Questions and Answers
 - i. Associated Risks: None
- II. Stage Two - Hardware configuration, cabling, power, mount signs, install remote power devices.**
 - a. All MessageNet Systems provided hardware, including remote power kits, and Ethernet to RS-232 controllers will be delivered no later than (NLT) 30 calendar days after date of signed contract.
 - i. Associated Risks:
 1. Hardware does not arrive in MessageNet office with sufficient time to configure and ship to MDIT/MSD.
 2. MessageNet will coordinate and track equipment orders and shipments throughout the process, advising MDIT/MSD of any delays as early in the process as possible. Equipment will be ordered as soon as possible after signed contract and issuance of purchase order.
 - b. On-Site server configuration and installation – Two Days
 - i. On-site server configuration and installation will be coordinated, scheduled and completed within five business days of the scheduled delivery date of the hardware shipment.
 - ii. MessageNet will dispatch to the customer premise to reformat hard drives, load operating system, load MessageNet software applications and modules, and



- configure all software and hardware definitions associated with the server and peripheral equipment.
- iii. Customer provided remote access to the server from the MessageNet office will be established at this time to allow remote troubleshooting, testing and support as the signs are being mounted and connected to the system.
 - iv. Customer will provide a work area complete with power, monitor, keyboard, mouse, and Internet connectivity.
 - v. Minimum hardware requirements previously provided apply.
- c. Customer is responsible for connecting all signs, controllers, and peripheral hardware received from MessageNet Systems.
- i. Associated Risks
 - 1. Incorrect or defective cabling/connectors
 - 2. All Cat5e cabling requires standard crimping. MessageNet Systems will work with MDIT/MSD to test sign connections as signs are installed. This will ensure the signs are operational prior to dispatch for final installation and training.
- d. MessageNet Systems will:
- i. Configure all LED sign controllers with customer provided IP address information, including IP address, Gateway, and Network Mask
 - ii. Configure and test all LED sign boards and remote power kits prior to shipping to customer for installation.
 - iii. Troubleshoot with designated customer contacts on any issues related to sign connectivity.
 - iv. Attend conference call status and project meetings as agreed.
- e. MDIT/MSD will:
- i. Run Cat5e cable from centralized location(s) to each LED sign board location. Cable should be crimped at both ends with 8 pin modular plug connectors per standard EIA 568B.
 - ii. Provide two power outlets per LED sign board at centralized location(s). One power outlet to be used for LED sign board power and one outlet to be used for Ethernet to RS-232 Controller.
 - iii. Provide DB9 RS-232 output from Simplex fire panel.
 - iv. Provide one power outlet and one network jack within three feet of the fire panel to allow Ethernet to RS-232 Controller connectivity.
 - v. Mount signs at desired location.
 - vi. Connect remote power kits per diagrams and instructions.
 - vii. Install server in desired location and connect to Ethernet network.
 - viii. Attend conference call status and project meetings as agreed.

III. Stage Three – Installation and Implementation

- a. Installation date will be scheduled for a date NLT 14 days after MDIT/MSD notifies MessageNet Systems that all LED Sign Boards are installed and connected to the network and power.
- b. MessageNet Systems will:
 - i. Verify remote connectivity to the server and check status of all installed components.
 - ii. Verify the server is connected to the network and functioning.
 - iii. Perform fault isolation on any outstanding issues not resolved prior to day of installation.



- iv. Test all installed components for operability.
- v. Verify status with designated customer contacts.
- vi. Associated Risks:
 - 1. All issues regarding sign connectivity will be known prior to dispatch based on Stage Two of the process. Most issues should be resolved prior to dispatch. All remaining issues will be addressed as part of the standard installation procedures.
- c. MDIT/MSD will:
 - i. Coordinate with MessageNet Systems to verify operability of all components attached to and controlled by the MessageNet server.
 - ii. Associated Risks: None
- d. A completed and installed system will consist of:
 - i. All associated hardware and software functioning as designed. Messages sent from the server will display on specified devices as defined in the test message.
 - ii. Associated Risks: None

IV. Stage Four – Training

- a. Training will be provided to customer personnel as defined in Stage One.
- b. Training will be conducted on-site at MSD.
- c. Training will include instructor led and hands-on training (requires MDIT/MSD to provide PCs for their staff to access the network and system).
- d. Documentation will consist of a Quick Reference Guide, Labs, and the built in help screens and on-line manual.
- e. Associated Risks:
 - i. Adequate facilities and PC equipment for attendees will be required to ensure a successful and productive training session. MessageNet Systems will coordinate and verify specific requirements with point of contact at MDIT/MSD prior to dispatch.

V. Licensing and Additional Phases

- a. Product licensing information is available on the System Parameters screen inside the application. No paper documentation regarding licensing will be provided. Purchase orders and invoices will be used to determine licensing.
- b. Additional Phases
 - i. Hardware purchased for additional phases will be configured and shipped to the customer for mounting and installation.
 - ii. Additional licensing will be viewable on the System Parameters screen inside the application.
 - iii. On-site training will be provided at the roll-out of each additional phase per agreement.



MessageNet Systems Product Features & Capabilities

<u>Features</u>	*	<u>Capabilities</u>
Private Communication Technologies		
Telephony		
Voice Bulletin Board		Delivers pre-recorded voice messages to dial in callers
Mass Faxing		Automated fax service
Call Check Feature		Outbound calls to individuals to see if they are ok
Hazardous Material Data Base		DB contains Emergency Response Guidebook-"HazMat"
Call Prioritization		Call prioritization
Mass Dialing Service		Mass Phone Dialing system
1st Responder Calling		Staff Mobilization
Voice Mail		Voice mail capabilities – play on browser or phone
Conference Calling		Conference Bridging – both dial-in & dial-out conferencing
PBX & PBX Front-End		VoIP, Analog, T1, - complete soft-switch
Click to Call Phone Directories		Browser based on-line phone directory with personal directories built in
WIFI IP Phones		Support encrypted wireless IP phones
Automatic Call Forwarding		Supports call routing to desk, cell, and home phones etc.
Data Devices		
PC Instant Messenger		Integrated prioritized instant messenger PC pop up notifications "PC Alert"
Email	*	Emailing capabilities – IN & Out
Email to Paging		Pages can be sent via email systems
Advanced Paging Protocols		SNPP, WCTP, TAP, TNPP
Text to Speech (TTS)		Convert text to speech - English
TTS & Recorded Mixed		Messages can be mixed recorded and TTS content, composed on-the-fly
Message Forwarding	*	Automatic forwarding of messages - person to person and device to device



Public Communication Technologies

Audio

2-Way Radio Messages to be delivered to 2-way radios via base stations

Visual Communication-Signage

Plasma Flat Panel Displays – TV's Large wall mountable displays, can show power point, web pages, TV and video

LED Signage – Indoor * 1 - 4 line models of various sizes

LED Signage – Outdoor * 1-4 line models in various sizes - Installation not included in quote

LCD Flat Panel Displays - TV's Large wall mountable displays, can show power point, web pages, TV and video

Audio Communication

Over Head Paging – PA Communicate to overhead paging systems - PA systems

Integrates Giant Voice Systems Outdoor loud speaker systems

Integrates Siren Systems Outdoor siren systems

PC Communications

Web Based Bulletin Board Browser based bulletin board - shared content w/ voice bulletin board

PC Instant Messenger Scrolling prioritized alerts with tones

Security & Systems Integration

Safety & Security Devices

Fire Panel Interface * Provides and processes fire panel alerts to messaging devices of all types

Duress Button Wireless panic/alert activation buttons 1 to 4 button models available

Contact Closure IN/OUT Wired & wireless - receives and sends signals to and from external systems

Motion Detectors Wireless - sends alerts messages when motion is detected

Door Open Detectors Wireless - sends alerts messages when door opens/closes

Smoke Detectors Wireless - sends alert when smoke is detected

IP Cameras w/microphone Wired & wireless - sends Mpeg video feed to selected PC when activated or motion detected



Automation

Global and Stream Variables	Supports message variable sharing critical to efficient message management and automation
Scripting Language	Allows for inter-message logic and message cascades

Application Features

User Interfaces

Telephone	Initiate message delivery via DTMF
Caller-ID activation	Initiate message delivery based on Caller-ID
Browser	* Initiate and manage messages via browser application
Graphical Interface	Supports communication devices selection and activation via maps and floor plan screens
Multiple Jobs per Person	* Multiple Jobs can be assigned to individuals
Job and Personal forwarding	* Jobs and People can forward their messages to other jobs and people

System Interfaces

API's	CAD, Nurse Call, building management system integration
-------	---

Features

Message Cascades	* Streams of messages of varying content initiated via single action and delivered to multiplicity of device types
Message Adaptation	* Message content automatically adapted to specific user or user class

System Utilities

Audit Trails & System Security

Archiving	* Saves messages on system server
Sender and Receiver Archives	* Archives available by browser
Subject Targeted Archives	* Archives available by browser
Automated System Back Up	* Schedulable database backups
Login Controls	* User must log in
Class of Service Controls	* Features are controlled by user class
Authorization List Controls	* User lists control recourse access

*** Indicates the features & capabilities included in the quote.**

Note: Everything else represents the expansion capabilities of the MessageNet Systems



MessageNet Systems Cut Sheet Information

Standard LED Electronic Sign



MN780L

Technical Specifications

Pixel (LED) Color:	Each dot can be red, green or yellow
Case Dimensions:	28"L x 4.25"H x 2"D
Character Size/Characters Per Line	2"H x 14 characters - 1 line sign
Approximate Weight:	8 lbs
Real-Time Clock:	Date and time, 12 or 24 hour format
Serial Communication:	RS232 @ 9600 Baud over CAT 5 or 6
Power:	120VAC
Case Material:	Aluminum
Mounting:	Hardware to accommodate ceiling line mounting
Limited Warranty:	One-year parts and labor

The Presentation Modes supported by the MN780L are , Rotate, roll up, roll down, Hold, Flash, automode, roll left, roll right, roll in, roll out, snow, sparkle. Other modes default to rotate.

The power supply cord for the MN780L is 4.5 feet in length.

The power requirements for the wiring closet for the 97 devices are as follows:

- 120V at 20A = 2,400W
- 2,400W / 75W = 32 signs (2,400W / 70W = 34 signs)
- If all power supplies and sign controllers are located in the same closet, four separate 120V, 20A circuit should sufficiently handle the load. That single closet would have to be 300 cable feet or less from every installed sign location.



MessageNet Systems Cut Sheet Information

2 - Line LED Electronic Sign



MN16160A

Technical Specifications

Pixel Size (Diameter):	0.2 inches
Pixel (LED) Color:	Red, green or amber
Center-to-Center Pixel Spacing (Pitch):	0.3 inches
Display Dimensions:	48"L x 4.8"H
Case Dimensions:	52.1"L x 5.5"D x 7.7"H
Character Size/Characters Per Line (One-line format):	4.8"/16
(Two-line format):	2.1"/26
Approximate Weight:	24.5 lbs.
Maximum Viewing Distance:	Up to 240 ft
Character Set:	International character set, Block (san serif) decorative (serif), upper/lower case, slim, slim, wide, double wide.
Message Presentation Modes:	25 consisting of: Automode™, Hold, Roll (6 directions), Rotate, Sparkle-On, Twinkle, Interlock, Wipe (six directions) Spray-On, Slide Across, Starburst, Switch, Flash, Snow, Scroll. Continuous message entry with automatic centering in any mode. Five Variable speed controls
Real-Time Clock:	Date and time, 12 or 24 hour format, maintains accurate time without power for up to 30 days typical
Serial Communication:	Standard RS232 and RS485
Maximum Power Cord Length:	10 ft
Power:	120VAC ± 10% - 180 watts max
Case Material:	Extruded aluminum
Operating Temperature:	32° to 120°F, 0° to 50°C
Humidity Range:	0% to 9% non -condensing
Mounting:	Hardware to accommodate ceiling, wall or counter mounting
Limited Warranty:	One-year parts and labor, factory servicing



MessageNet Systems Cut Sheet Information

1 Port Sign Controller



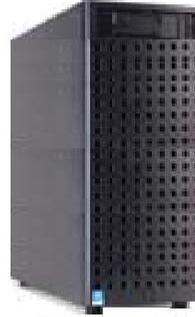
Technical Specifications

Ports:	1 Port RS232 DB9 connector
Power Supply:	120V AC 7.5V 300 mA
Network Interface:	10 Base T Network
Dimensions:	0.95"H x 2.2"W x 2.69"D
Weight	0.2 lbs
Limited Warranty:	1 Year Parts & Labor



MessageNet Systems Cut Sheet Information

8, 16 or 24 Port Sign Controller



Technical Specifications

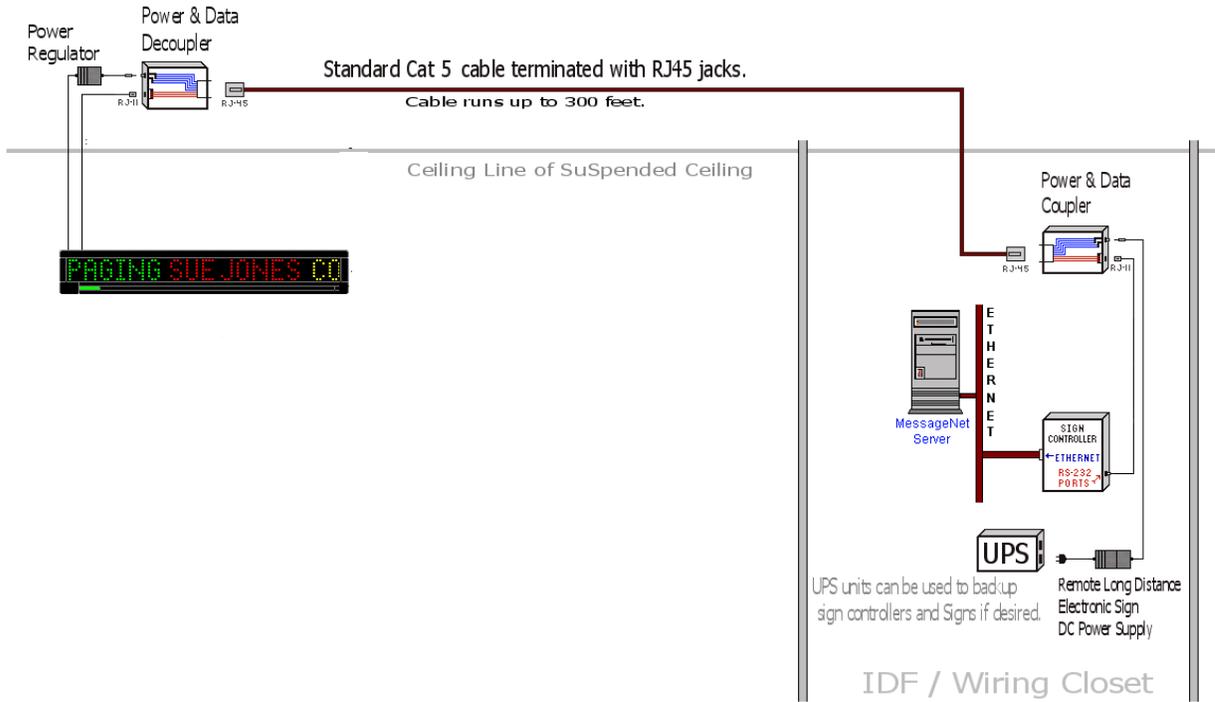
Memory:	128 Meg
Ports:	8, 16 or 24 Ports
Operating System:	Linux
Application:	MessageNet VisualPA
Processor:	1.80GHz
Network Interface:	Integrated 10/100 Ethernet
Video Card:	Integrated SiS
CD ROM:	Included
Sound Card:	Not Needed
Keyboard:	Not Needed
Mouse:	Not Needed
Floppy Drive:	Not Included
Speakers:	Not Included
Monitor:	Not Included
Approx Dimensions:	14.75"H x 7"W x 19.5"D
Approx Weight	17 lbs
Limited Warranty:	1 Year Parts & Labor



MessageNet Systems – Remote Power Diagram

Powering and Communicating to LED Signs over CAT 5 Cabling

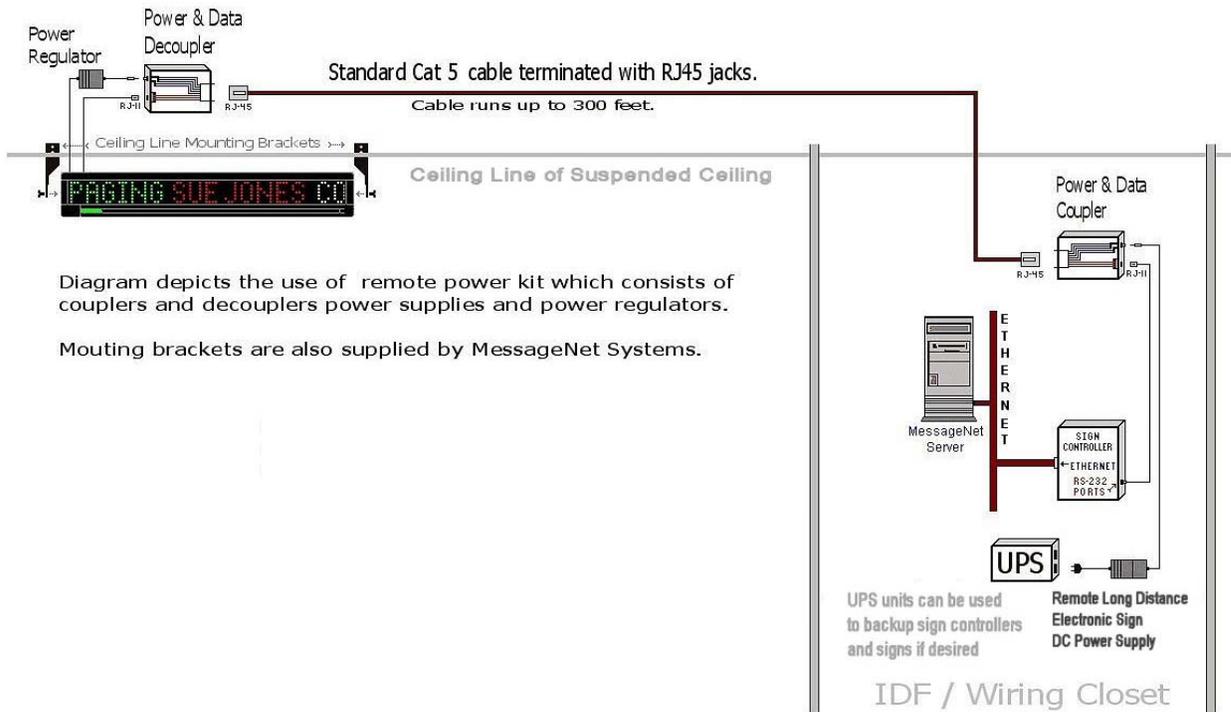
7-15-05



MessageNet Systems – Remote Power Diagram
Reflecting the Ceiling Line Mounting Brackets

Powering and Communicating to LED Signs over CAT 5 Cabling

7-15-05





Article 1, Attachment E

MessageNet SLA – Standard Service Level Agreement Standard

Customer agrees to purchase and MessageNet Systems (MessageNet) agrees to support MessageNet products with the following services:

Scope of Service

MessageNet will use reasonable efforts to provide support to the Customer by providing remote electronic and telephone support related to operating and troubleshooting MessageNet products. This includes:

- Assistance with troubleshooting system and device failures
- Assistance with browser based software configuration and parameter settings
- Provide MessageNet software releases
- Operating System upgrades

Note: New software releases and operating system upgrades are available for download by the customer or installed by MessageNet support staff.

Customer Responsibilities

The Customer agrees to cooperate with the MessageNet support staff by assisting with troubleshooting efforts and will provide:

- Remote access to the server via HTTP (port 80) and SSH (port 22) from the MessageNet public IP address.
- A primary point of contact to facilitate troubleshooting and coordination efforts.
- A secondary point of contact in the event the primary point of contact is unavailable.
- Software/data backup - The Customer understands and agrees that MessageNet is not responsible for any loss of software or data. The Customer is responsible for backing up all software and data, subject to the terms of the Software License Agreement.

Limitations

Change Requests covered under this agreement are limited to changes that can be made within the browser based access method. All other changes are considered Custom Software Change Requests.

Custom Software Change Requests

Custom Software Change Requests are billed at a rate of \$150.00 per hour with a one hour minimum. Additional time will be billed at \$150.00 per hour in 15 minute increments. All Custom Software Change Request must be reviewed and approved by the MessageNet development team. MessageNet reserves the right to deny any Custom Software Change Request.

Hours of Service

MessageNet will provide remote electronic and telephone support for operational questions and troubleshooting MessageNet products with the Customer's designated representative between the hours of 8:00 a.m. to 5:00 p.m. EST Monday through Friday. MessageNet Support can be reached at (317) 566-1677 or support@messagenetsystems.com

After Hours & Saturday Service

After Hours & Saturday Service is billed at a rate of **\$150.00 per hour with a one hour minimum**. Additional time will be billed at **\$150.00 per hour in 15 minute increments**.

Sunday & Holiday Service

Sunday & Holiday Service is billed at a rate of **\$240.00 per hour with a one hour minimum**. Additional time will be billed at **\$240.00 per hour in 15 minute increments**.



MessageNet Peripherals

A failure of peripheral equipment provided by MessageNet where communication terminates, such as electronic LED signs, LCD/flat panel displays, pagers, etc., does not constitute a critical failure. All defective equipment is to be returned to MessageNet for repair or replacement within one (1) year of delivery of equipment to the Customer. (MessageNet Systems will assume the shipping costs for in-warranty defective equipment utilizing our RMA process.) Defective peripheral equipment not covered by an extended hardware warranty and not returned within one (1) year of receipt of equipment will be repaired or replaced at the Customer's expense. The Customer is responsible for obtaining a return material authorization (RMA) number from MessageNet before returning any such equipment, by contacting MessageNet Support at (317) 566-1677 or support@messagenetsystems.com.

Customer Provided Hardware

If the point of failure is isolated to a piece of customer provided hardware, it will be the customer's responsibility to coordinate return/repair with the hardware vendor. MessageNet Hourly Service will be accessed for services provided to restore the MessageNet software to any customer provided equipment.

MessageNet Hourly Service is provided during regular business hours of 8:00 a.m. to 5:00 p.m. EST Monday through Friday and billed at a rate of \$150.00 per hour with a one hour minimum. Additional time will be billed at \$150.00 per hour in 15 minute increments.

System Security

MessageNet assumes no responsibility to rectify problems associated with any feature lockout that is the result of a class of service restrictions imposed on users by Customer's system administrators. MessageNet may elect to, on an exceptional basis, assist with rectification efforts during regular business hours of 8:00 a.m. to 5:00 p.m. EST Monday through Friday at the MessageNet Hourly Service rate.

Other

Any requests for onsite visits for repair or troubleshooting of the MessageNet products are not included under the terms of this agreement and will be subject to additional fees.

Initial Term: One (1) Year

Initial Annual Fee for the first year of the Initial Term: \$

Payment is due on the anniversary date of the purchase of the contract.

Michigan School for the Deaf

MessageNet Systems, Inc

By: Print Name

By: Print Name

Signature

Signature

Title

Title

P.O. Number

Start Date: _____



Article 1, Attachment F
Cost Tables
Table 1: Summary of the Project Cost

No.	Cost Categories	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
A.	COTS Package One time cost of vendor's proposed COTS package. (VisualPA & Fire Panel Interface applications)	4,400.00	0.00	0.00	0.00	
B.	Interfaces Give breakdown in Table 4.	799.00	0.00	0.00	0.00	
C.	Software Tools Licenses Give breakdown in Table 5.	0.00	0.00	0.00	0.00	
D.	Training and Documentation Give breakdown in Table 6.	3,700.00	1,850.00	1,850.00	1,850.00	
E.	Servers Hardware Give breakdown in Table 7.	\$53,172.53	\$14,160.24	\$5,972.70	\$10,722.74	
F.	Servers Software Licenses Give breakdown in Table 8.	\$36,375.00	\$9,000.00	\$3,375.00	\$4,980.00	
G.	Project Implementation Give breakdown in Table 9.	\$4,800.00	\$0.00	\$0.00	\$0.00	
H.	Connectivity (network solution) (between identified sites and State network)					
I.	One year warranty cost from the date of acceptance (if not included in this table)					
J.	Quantity Discount 15% - The discount is not provided for tables 2, 6, 9.	(14,212.00)	(3,474.00)	(1,402.00)	(2,355.00)	
	Total Project (one time) Cost	\$89,034.53	\$21,536.24	\$9,795.70	\$15,197.74	

Table 2: Five Years Recurring Cost: Updates, Maintenance and Support

No.	Cost Categories	Cost (\$)	Comments
K.	COTS/Application software update cost (Includes licensing and updates each year)		MessageNet SLA
	1. First Year (after one year warranty)	0.00	
	2. Second Year	4,157.00	
	3. Third Year	5,057.00	
	4. Fourth Year	5,395.00	
L.	Maintenance and support cost (includes all programming and DB administration functions for implementing future business requirements; includes warranties on message boards)		This cost is being allocated for used over the 4 year term of the contract. For any additional after hours of service calls, such as, holidays, Sundays, or after 5:00. It could also be used for the any Customized Software fees and other additional charges not included in the SLA (Standard Level Service Agreement).
	1. First Year	0.00	
	2.	30,451.00	
	3.		
	Total Recurring Cost	\$50,950.00	



Table 3: Total 5 Years System Cost

No.	Cost Categories	Cost (\$)	Comments
Table 1	Total project (One Time) Cost	\$135,564.21	
Table 2	Total Reoccurring Cost	50,950.00	
	Total 5 Years System Cost	\$186,514.21	

Cost Breakdown Tables

Table 4: Breakdown of Interfaces Cost

No.	Interfaces	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
D.	1. Fire Panel Interface	799.00	0.00	0.00	0.00	Fire Panel Interface
	2.					
	Total Cost of Interfaces	\$799.00	\$0.00	\$0.00	\$0.00	

Table 5: Breakdown of Training and Documentation Cost

No.	Training cost and Documentation	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
F.	1) User training – DIT					
	2) User training – MSDB					
	3) User training documentation – <i>User Guides will be provided to those attending the training. – Complete Operations Manual is available on line within the application under “HELP” tab.</i>					
	4) Operational management training					
	5) Operational management training documentation					
	Other (List):					
	6) System Training – to include, DIT, MSDB, etc. 7) <i>Training will be completed as specified on the MessageNet project plan and as required the General Requirements Section G – Training.</i>	3,700.00	1,850.00	1,850.00	1,850.00	
Total Cost of Training & Documentation	\$3,700.00	\$1,850.00	\$1,850.00	\$1,850.00		

Table 6: Breakdown of Servers Hardware Cost

No.	Server hardware cost	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
G.	1) Servers Hardware - Operating System					
	2) Servers Hardware - DBMS					
	3) Servers Hardware - Print					



4)	Server Hardware - Security					
5)	Servers Hardware - Others					
6)	Server Hardware - Backup					
7)	Servers - Fire walls					
8)	Servers Hardware installation, configuration, and testing.					
	Other Hardware (List separately):					
9)	MN780L – Color 1 Line 2”, 14 Char, 275.5”L by 4.25”H sign	22,759.11	5,631.12	2,111.67	2,815.56	LED signs, quoted as specified in Section 1.104 Work Deliverables
10)	MN16160A – Color 2 Line 5”, 16 Char, 52” L x 7.7”H sign	0.00	0.00	0.00	2,800.00	Larger Sign for 4 th year
11)	H108 - 1 Port Sign Controller	1,300.72	0.00	0.00	0.00	Single Port Sign Controller
12)	H112 – 8 Port Sign Controller				3,493.06	2 – 8 port sign controller, each Thelma Heck Service & 1 for Communication A Ctr.
13)	H114 - 16 Port Sign Controller	15,902.64	5,300.88	2,650.44	0.00	Multi Port Sign Controller
14)	H170 – Ethernet to RS232 Adapter	162.59	0.00	0.00	0.00	Used to interface to the Panel
15)	H500 - Remote Power – Complete Kit	13,047.47	3,228.24	1,210.59	1,614.12	Remote Power – Complete
	Total Cost of Server Hardware	\$53,172.53	\$14,160.24	\$5,972.70	\$10,722.74	



Table 7: Breakdown of Servers Software Licenses Cost

No.	Server software cost	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
	1) Servers Software - Operating System	0.00				
	2) Servers Software - DBMS	0.00				
	3) Servers Software - Print	0.00				
	4) Server Software - Security	0.00				
	5) Servers Software - Others	0.00				
	6) Server Software - Backup	0.00				
	7) Servers - Fire walls	0.00				
	8) Server Software installation, configuration, and testing.	0.00	0.00	0.00	0.00	
	9) Load balancing software	0.00				
	Other Software (List separately):					
	10) S100L – Std Sign (MN780L) Software License	36,375.00	9,000.00	3,375.00	4,500.00	
	11) S103 – 2 Line Sign Software License				480.00	
	Total Cost of Server Software Licenses	\$ 36,375.00	\$9,000.00	\$ 3,375.00	\$ 4,980.00	



Table 8 Project Implementation Cost

No.	Resources Required	Cost Phase 1 (\$)	Cost Phase 2 (\$)	Cost Phase 3 (\$)	Cost Phase 4 (\$)	Comments
	1. Project Management					MDIT will assume the responsibility for the Project Management therefore eliminating any additional cost from MessageNet Systems for the Project Management. This includes but not limited to the completion of updates, etc state's PMM.
	2. Technical Lead					MDIT will assume the responsibility for the Technical Lead, therefore eliminating any additional cost from MessageNet Systems for Technical Lead. This includes but not limited to the completion of updates, etc state's PMM.
	3. Integration: (Integration of your COTS/Application software product with customized code and external interfaces)					
	4. Testing: (a) Unit, (b) System, (c) Integration, (d) Performance (load and stress), (f) UAT, (g) Other (List):					
	5. Deployment / Cutover					
	Other (List):					
	6. ...Onsite Server Software Installation, Configuration, & Testing (2 Days). This would be to accommodate the requirement of not sending a server off site.	4,800.00	0.00	0.00	0.00	MessageNet Systems anticipated the onsite (at MSD) server software installation, configuration and testing to take place within 2 days of delivery of the additional hardware equipment. This would simplify and streamline the installation of the sign by MessageNet Systems for the state. – Time schedule course would be defined by MDIT's project plan.
	7.					
	Total cost Project Implementation	\$4,800.00	\$0.00	\$0.00	\$ 0.00	