

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

January 21, 2010

CHANGE NOTICE NO. 2
 TO
 CONTRACT NO. 071B7200193
 between
 THE STATE OF MICHIGAN
 and

| | |
|---|---|
| NAME & ADDRESS OF VENDOR Pace & Partners, Inc. 1223 Turner Street, Suite 101 Lansing, MI 48906 horak@paceandpartners.com | TELEPHONE (517) 257-9800 Debbie Horak |
| | VENDOR NUMBER/MAIL CODE |
| | BUYER/CA (517) 241-4225 Kevin Dunn |
| Contract Compliance Inspector: Anne Readett Creative and Media Services – MSP/OHSP | |
| CONTRACT PERIOD: From: February 9, 2007 To: September 30, 2010 | |
| TERMS N/A | SHIPMENT N/A |
| F.O.B. N/A | SHIPPED FROM N/A |
| MINIMUM DELIVERY REQUIREMENTS N/A | |

NATURE OF CHANGE(S):

Effective immediately, this Contract is hereby EXTENDED until September 30, 2010, and INCREASED by \$3,257,500.00. NOTE: The DMB Buyer for this Contract is changed to Kevin Dunn (517) 241-4225.

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

AUTHORITY/REASON:

Per agency request (PRF dated 11/10/09), Ad Board approval on 1/19/10, and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: \$16,757,500.00

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

June 6, 2007

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B7200193
between
THE STATE OF MICHIGAN
and

| | |
|---|--|
| NAME & ADDRESS OF VENDOR Pace & Partners, Inc. 1223 Turner Street, Suite 101 Lansing, MI 48906 horak@paceandpartners.com | TELEPHONE (517) 257-9800 Debbie Horak |
| | VENDOR NUMBER/MAIL CODE |
| | BUYER/CA (517) 373-1080 Melissa Castro |
| Contract Compliance Inspector: Anne Readett Creative and Media Services – MSP/OHSP | |
| CONTRACT PERIOD: From: 02/09/2007 To: January 31, 2010 | |
| TERMS N/A | SHIPMENT N/A |
| F.O.B. N/A | SHIPPED FROM N/A |
| MINIMUM DELIVERY REQUIREMENTS N/A | |

NATURE OF CHANGE(S):

Effective immediately, the attached pricing is hereby incorporated into this Contract. All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per agency/vendor agreement and DMB/Purchasing Operations.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$13,500,000.00

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

February 26, 2007

NOTICE
TO
CONTRACT NO. 071B7200193
between
THE STATE OF MICHIGAN
and

| | |
|---|---|
| NAME & ADDRESS OF VENDOR Pace & Partners, Inc. 1223 Turner Street, Suite 101 Lansing, MI 48906 <p style="text-align: right;">horak@paceandpartners.com</p> | TELEPHONE (517) 257-9800 Debbie Horak |
| | VENDOR NUMBER/MAIL CODE |
| | BUYER/CA (517) 373-1080 Melissa Castro |
| Contract Compliance Inspector: Anne Readett <p style="text-align: center;">Creative and Media Services – MSP/OHSP</p> | |
| CONTRACT PERIOD: From: 02/09/2007 To: January 31, 2010 | |
| TERMS <p style="text-align: center;">N/A</p> | SHIPMENT <p style="text-align: center;">N/A</p> |
| F.O.B. <p style="text-align: center;">N/A</p> | SHIPPED FROM <p style="text-align: center;">N/A</p> |
| MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p> | |

Estimated Contract Value: \$13,500,000.00

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

**CONTRACT NO. 071B7200193
 between
 THE STATE OF MICHIGAN
 and**

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|---|--|
| NAME & ADDRESS OF VENDOR Pace & Partners, Inc. 1223 Turner Street, Suite 101 Lansing, MI 48906 <div style="text-align: right;">horak@paceandpartners.com</div> | TELEPHONE (517) 257-9800 Debbie Horak VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-1080 Melissa Castro |
| Contract Compliance Inspector: Anne Readett <p style="text-align: center;">Creative and Media Services – MSP/OHSP</p> | |
| CONTRACT PERIOD: From: 02/09/2007 To: January 31, 2010 | |
| TERMS <p style="text-align: center;">N/A</p> | SHIPMENT <p style="text-align: center;">N/A</p> |
| F.O.B. <p style="text-align: center;">N/A</p> | SHIPPED FROM <p style="text-align: center;">N/A</p> |
| MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p> | |
| MISCELLANEOUS INFORMATION: Estimated Contract Value: \$13,500,000.00 | |

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| FOR THE VENDOR: <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;"> Pace & Partners, Inc. Firm Name </div> <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;"> Authorized Agent Signature </div> <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;"> Authorized Agent (Print or Type) </div> <div style="text-align: center; border-bottom: 1px solid black;"> Date </div> | FOR THE STATE: <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;"> Signature Elisa A. Lancaster </div> <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;"> Name Director, Purchasing Operations </div> <div style="text-align: center; border-bottom: 1px solid black;"> Title </div> <div style="text-align: center; border-bottom: 1px solid black;"> Date </div> |
|--|---|



**STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations**

Advertising & Creative Services for MSP-OHSP

Buyer Name: Melissa Castro
Telephone Number: 517-373-1080
E-Mail Address: castrom@michigan.gov



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ATTACHMENTS:

Exhibit A



Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

The purpose of this Contract is to provide advertising agency services for the Michigan State Police (MSP), Office of Highway Safety Planning (OHSP).

1.002 Background

OHSP is a civilian division of the Michigan Department of State Police and is the state agency charged with implementing programs to reduce traffic-related deaths and injuries. OHSP receives federal funds from the National Highway Traffic Safety Administration (NHTSA) for this purpose. The main focus of these activities is to increase safety belt use and decrease drunk driving through high-visibility multi-agency enforcement campaigns that rely heavily on successful publicity and advertising campaigns. OHSP is also involved in other traffic safety issues, such as mature drivers, bicycle, pedestrian, and motorcycle safety.

OHSP supports a number of traffic safety programs, including but not limited to:

1. Working with Michigan law enforcement agencies in projects aimed at getting drunk drivers off the road, enforcing safety belt laws, and other dangerous driving behavior.
2. Alcohol impaired driving prevention that includes training for law enforcement officers and the criminal justice community.
3. Occupant protection (safety belts) and child passenger safety (child safety seats).
4. Safe Communities that encourage local groups to assess their traffic safety issues and establish programs to address problems.
5. Youth traffic safety programs for local coalitions, providing grant funds for programs aimed at reducing underage drinking, and enforcement of underage drinking laws.
6. Corporate outreach to employers because traffic crashes are the leading cause of on-the-job death and injury.
7. Roadway safety that involves analyzing current and accurate crash data to understand problems and determine potential solutions.

1.1 Scope of Work and Deliverables

1.101 In Scope

The overriding goal of OHSP is to obtain marketing, promotion, and advertising services which will assist with efforts to reduce traffic-related deaths and injuries. This will mainly focus on publicizing special statewide traffic enforcement programs, mainly safety belt and drunk driving campaigns. In addition, OHSP must ensure that its advertising and promotional efforts are in good taste. In conjunction with these goals, OHSP has these primary objectives:

- A. to achieve maximum effectiveness and efficiency in expenditures for marketing, promotion and advertising services, supplies, and materials;
- B. to contract with an agency that can plan, develop and execute in a timely manner, effective, efficient and professional quality marketing, promotion and advertising programs, strategies and projects that will ensure widespread awareness of special traffic enforcement efforts among the state's primary target group, young men;
- C. to work within program guidelines and message strategies as directed by the funding agency, NHTSA;



- D. to contract with an agency that will work with OHSP as a team to plan marketing and advertising strategies;
- E. to contract with an agency that is sufficiently flexible to adapt to OHSP's changing needs over the term of the agreement;
- F. to contract with an agency that can successfully leverage paid advertising to maximize opportunities for matching spots, value added, bonus, and other means to further advertising reach.

Examples of Communications Objectives for OHSP:

- 1. Enhance and increase perception of being cited for failure to buckle up during periodic statewide safety belt enforcement mobilizations.
- 2. Enhance and increase perception of being arrested for drunk driving during periodic statewide drunk driving crackdowns.
- 3. Create widespread awareness among the motoring public for new traffic laws, such as the state's .08 blood alcohol content drunk driving law.
- 4. Deter underage drinking (and drinking and driving) through awareness of high visibility enforcement of underage drinking laws.
- 5. Utilize involvement in sports marketing opportunities to promote traffic safety.

1.102 Out of Scope

While evaluation will take place for all traffic enforcement campaigns supported by paid advertising, OHSP will handle this task independently by assessing traffic crash data, safety belt use direct observation surveys, and pre and post statewide telephone surveys.

1.103 Environment – Reserved

1.104 Work and Deliverable

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

OHSP's Communications Section will have responsibility for overseeing the planning and execution of all public relations/earned media activities related to traffic enforcement and traffic safety programs (OHSP's funding agency, NHTSA, must review and approve all advertising creative and media buy plans in advance); the agency will be responsible for:

- 1. Developing advertising/marketing/creative concepts and direction (including but not limited to professional-level 30-second TV and 60-second radio spots, billboards, posters, banners, flyers, etc.) *Note: all creative concepts/materials/productions must be copyright free..*

Contractor Response:

Pace & Partners is proud of our track record for providing exemplary creative strategy, unique concepts, and dramatic executions that have, in four short years, helped propel Michigan to elite status of 94% safety belt use (the only state east of the Rockies with documented usage above 90%).

The concepting stage is the most important stage in marketing campaign development because this is the stage that incubates the architecture upon which the entire campaign is built.



The process we use is a collaborative one. First we engage the client in deep discussions about their goals and objectives, understanding of the problem, barriers to change, and limitations or restrictions. We explore and examine the client's existing research and information. We identify relevant secondary research and information and review it thoroughly. We apply our strategic and creative resources to examine the issue at hand from multiple vantage points. We ask a lot of questions. We challenge current beliefs. We work hard to get to the bottom of things. As a culmination of this work, our account manager develops a creative brief that guides the creative team in concept development.

Creative teams are assembled and challenged to develop multiple concepts for review by the creative director and strategic team. Often several rounds of preliminary concepts are reviewed, refined, sometimes discarded, and refined further before the final set of concepts is complete and ready to present to the client.

Since 2002, we have partnered with OHSP to continually reinvent campaign positioning, messages, execution and outreach that have resulted in a succession of effective campaigns. Concepts like "Buckle Up or Pay Up" and ".08—Lower Limit. Tougher Law." were powerful positions that emerged from this process. They have helped OHSP achieve remarkable results.

Another important consideration (on the financial side) is that we have accomplished this while consistently meeting client requirements including the use of non-rights managed (copyright free) visual materials and full buy-out (unrestricted use) talent.

2. Conducting marketing research as requested (generally focus groups)

Contractor Response:

Pace & Partners has considerable experience in working with clients to develop, manage and implement marketing research on their behalf. We have led research efforts with our clients' customers, prospects, employees, large population segments (for social marketing campaigns), grantees and many other constituent groups. Our research experience includes qualitative research (depth interviews, focus groups, behavioral observation/anthropological studies), quantitative research (phone surveys, mail surveys, Web surveys), and projects that combine both methods.

Our approach to research includes the following:

- 1) Agreement with our client on the goals, objectives and sample (audience) of the marketing research. Marketing research requires a lot of "up-front" discussion and agreement about precise objectives and intended outcomes. This initial agreement is critical to the success of the project. There is nothing worse than investing time and resources on a research project only to discover that the information gathered is not useful. We ensure that this does not happen by focusing a great deal of attention to the early steps.
- 2) Immediately after agreement is reached about goals and objectives, Pace & Partners develops a detailed work plan and timetable for the research project and begins to implement the project according to the plan. The steps included in this plan are:
 - a) Confirmation of objectives, sample definition and budget.
 - b) Confirmation of geographic locations as determined by goals and objectives of the project.
 - c) Confirmation of research dates and timing of deliverables.
 - d) Screening and recruitment criteria established and approved by client.
 - e) Outline of the information needs to be met by the research.
 - f) Selection of focus group moderator. Although Elissa Crumley (our VP of Business Intelligence) is an experienced and skilled moderator, there are occasions when a client prefers a third-party moderator. For example, if creative products developed by Pace & Partners are being evaluated in the research, clients sometimes prefer that a moderator who is not on staff conduct the focus groups. Or, if the demographic composition dictates that a particular moderator would be most useful, such a moderator is identified.
 - g) Draft questionnaire or draft interview guide for client review and approval.
 - h) Review of demonstration or testing materials to be used in the groups. These can include creative products from past campaigns, new creative concepts being explored, campaigns from other states or organizations. Sometimes no materials are necessary, and the focus groups are simply exploratory.
- 3) Because important decisions are at stake, and to ensure that the information we collect holds true across the target audience, we typically recommend replication in focus group research design. Replication provides for a minimum of two groups with the same sample composition to test for consistency of response.
- 4) The account manager attends all the focus group sessions. Representatives of the creative team also attend where appropriate. We encourage clients to attend the focus groups and observe the discussion firsthand.



- 5) At the conclusion of the focus groups, we develop a final report and the specific dissemination/presentation materials the client needs. Simultaneously, we incorporate the information and what we learned into the development of all creative products and materials.
- 6) Typically, a focus group project can be completed in four to six weeks, depending on the scope of the project.

3. Producing project deliverables including radio and TV ads, billboards, posters, banners, flyers, etc. Note: *This includes using professional quality subcontractors when necessary, scouting locations, auditioning/screening talent, providing props when needed, etc.*

Contractor Response:

We have a full account management, creative and production staff on-site that executes, manages and implements creative projects. Our creative resources include our creative director, copywriters, producers, art directors, graphic designers, and production artists. We have the in-house capability to execute billboards, posters, banners, flyers, Web communications, emails—almost any materials required to support an effective campaign. For broadcast deliverables (such as TV and radio), we develop scripts, treatments, and storyboards. Our creative director or senior copywriter/producer serves as the Executive Producer and we engage trusted subcontractors for production in the field. We have excellent relationships with multiple subcontractors across Michigan for radio and television production, and preferred relationships with subcontractors who meet our quality standards and work ethic.

We screen auditioned talent and approve recommended locations (often participating in scouting visits). We work collaboratively with our client and subcontractors to provide any other support necessary for success, including props, law enforcement personnel, extras, etc.

Our success with this process is demonstrated by all of our work with the OHSP and other clients, most recently in developing the “Signs” TV campaign which required the development of extensive custom props and signage, the coordination of multiple vehicles, and filming of these vehicles in a variety of traffic situations. The complementary Mobilization Kit that was employed simultaneously included the design and production of packaging, banners, notebooks, flyers, posters and stickers. These materials were developed on time, on budget and were instrumental in the shared success of reaching 94% belt use.

4. Producing and duplicating media materials as needed

Contractor Response:

Our deliverables to our clients have always included prompt and accurate delivery of broadcast materials in a variety of formats to radio and television stations throughout Michigan.

5. Developing media plans for paid advertising outlining:
 - a. target audience
 - b. flight dates
 - c. geographic markets

Contractor Response:

The single largest portion of OHSP’s annual social marketing budget is dedicated to media placement. It is only with deep understanding, careful planning, powerful tools and meticulous execution, that these dollars can be put to the best use to reach and move audiences.

Pace & Partners and its subcontractor has the team, research, insight and experience necessary to perform all media planning elements required by the Office of Highway Safety Planning (OHSP). They are familiar with the policies and procedures set by the National Highway Traffic Safety Administration (NHTSA) for “Buckle Up or Pay Up” (BUPU) and “Click It or Ticket” (CIOT), “You Drink & Drive. You Lose.” (YD&DYL), as well as the new initiative “Over the Limit, Under Arrest.” In addition, they have previous experience serving as a media-only outlet without sacrificing creative execution. On-site research includes, but is not limited to, the following:

Neilsen television ratings data for all Michigan markets

Neilsen Local People Meter reporting for the Detroit DMA

Neilsen cable television ratings for all Michigan markets, including ratings for cable-only households and cable zones

Neilsen ethnic ratings for all Michigan markets where available



Arbitron radio ratings data for all Michigan markets
Arbitron ethnic ratings data
Local Scarborough Research
Mediamark Research Inc. (MRI)
Claritas PRIZMNE Lifestyle Segmentation System
Standard Rate & Data Service (SRDS)
Spot Quotations and Data (SQAD)
STRATA Buy Management System (SBMS)
Rate-tracking information gathered from decades of buying in Michigan

Using research and client objectives, the primary target audience is carefully selected by the client and agency. For the purposes of the OHSP campaigns, it would be the audience least likely to buckle up for BUPU and the audience most likely to drive while impaired for YD&DYL. In both cases, this target broadly equates to young men. However, often specific geographic and demographic sub targets must be understood, analyzed and targeted. In addition to primary target audiences, secondary and tertiary audiences are explored. For instance, as demographic and lifestyle behaviors shift, research may show that other demographic groups should be considered. These groups may or may not have proportionate levels of safety belt use or alcohol-related citations, but can be viewed as having secondary or tertiary importance.

The younger, male target is often one of the most difficult to reach. These individuals do not take part in many traditional television day parts including daytime and news programming. They do watch cable, but often only specific, niche networks, and particular programming within those networks. Pace & Partners and its subcontractor understand the idiosyncrasies of this critical demographic. We build media plans so that valuable client dollars are spent wisely.

Flight dates are selected based on communications objectives. Types of media schedules include continuous, flighted or pulsing. We are fluent in each strategy and the tradeoffs associated with each approach. OHSP communications objectives include: 1) enhancing and increasing perception of being cited for failure to buckle up during periodic statewide safety belt mobilizations, and, 2) enhancing and increasing perception of being arrested for drunk driving during statewide drunk driving crackdowns. Based on these objectives, OHSP media campaigns often employs a flighted approach built around the scheduled enforcement periods.

The viewing patterns of the younger male demo change throughout the year. For example, in May, you can find them enjoying the NBA playoffs and watching key sweeps programs such as the finales of both "Prison Break" and "Lost." In August, you can find them watching baseball right before the playoffs, and preseason football. There is a healthy amount of prime-time television inventory available in May. Conversely, it is often difficult to purchase for this demo during July and August. The timing of the enforcement periods will drive the media mix so that the appropriate mediums, weight of each respective medium, and day-part mix are optimally allocated.

Michigan contains seven Designated Market Areas (DMAs). These are groups of counties in which the commercial TV stations in the Metro/Central area achieve the largest share. When it comes to radio, Michigan is home to ten Metro Survey Areas (MSAs). These areas include county(ies) of the majority of the local area stations' city(ies) of license. Michigan also has several rural areas that have no form of media measurement available. Geographic markets are selected by the client and agency. With information provided by OHSP and NHTSA, markets will be listed in terms of priority. Budget parameters will determine percentage allocation for each market.

As mentioned earlier, we have decades of rates, ratings, trends on-site and, more important, planning and buying experience and expertise pertinent to the State of Michigan. And just as flight dates impact media selection, the geographic location of the younger, male demo in the state is also significant. While the Detroit market enjoys the hometown Lions (whether winning or losing), the Marquette market prefers viewing a good Green Bay Packers game. Buying media in the state of Michigan requires knowledge of which markets spill into other markets, how far station signals reach, the makeup of each market, the trends in each market, how to reach nonmetered markets, and valuable long-term relationships with media representatives built on the best interest of the client.

6. Developing media buy plans that outline:
 - a. how the media plan will be executed
 - b. proposed media (GRP) levels and expenditures for each medium in each market

**Contacting Response:****Execution of Media Plan**

The media plan will be executed using the following steps:

Step 1: Analyzing the research, target audience, client goals, client objectives, and target markets.

Step 2: Meetings by the primary media team with representatives of the media in the key markets. Client goals and guidelines will be discussed, as will the development of potential partnerships and promotions.

Step 3: Finalize media plans and specific tactics for each target audience. Individual plans for each campaign will be finalized, with goals, target audiences, media outlets, flight dates and markets determined. All media plans will be reviewed and approved by both OHSP and NHTSA before moving to Step 4.

Step 4: The actual negotiation and placement of media schedules and special promotions. This will include taking into account any NHTSA guidelines such as programs or formats deemed inappropriate. Once this is complete, OHSP will receive a comprehensive buy detail report. This report documents the use of every media dollar.

Proposed media (GRP) levels and expenditures for each market in each medium Measured Areas

Proposed media levels and expenditures are generally a function of market size, because markets with a higher market ranking are more expensive than those with a lower ranking. The makeup of the market and the media options available in each market are also considered. Using historical information, SQAD, and market conditions, budgets for each market and each medium are determined, along with the respective reach and frequency goals.

As mentioned in Bidder Response 5, particular emphasis is placed on the geography and the media options best suited for that geography at a given time. Each market in Michigan is unique. For example, many Battle Creek radio stations spill into the Kalamazoo radio market. There are two ABC affiliates in the Grand Rapids market. FOX Sports Net can be procured directly to cover the entire state of Michigan (including satellite viewing), versus buying it through cable for each market. These are among the many, many pieces of valuable information pertaining to Michigan media. Individually and collectively, market factors and conditions impact the level of GRPs in each market and for each medium. It is critical to possess knowledge of each market and all media options. Decades of buying media every business day in the state of Michigan makes this possible.

Nonmeasured Areas

Areas with lack of formal media measurement require special attention and often require a change in media selection to communicate the message to the target audience. Media outlets exist in these areas that reach the target audience and will assist in reaching OHSP's goals. The subcontractor's relationships with such vendors, along with access to SRDS, allow for these options to be fully explored and implemented to meet OHSP's needs.

7. Advertising placement, negotiation of matching spots, value added, bonus, and other means to further advertising reach, as well as follow-up reporting to include invoice reconciliation, and audience delivery assessments with an objective of receiving plus or minus 10 percent of the GRP goal in the proposed media buy.

Contracting Response:

Several procedures are put in place to ensure that OHSP receives the best buy, at the best cost, with the most value-add.

If time permits, the media is placed well before the campaign begins to ensure inventory availability and the power to negotiate. Generally, with three rounds of negotiation, 25% of client budgets are saved. This equates to half a million dollars based on OHSP's projected media budget. This is in addition to the already low rates received by sales representatives due to the subcontractor's knowledge of Michigan media.

Media representatives from all over the state are met with throughout the year to discuss the goals of OHSP and how the station can assist in meeting them. Each cable system, radio station, and television station in each market where OHSP advertises will be availed to guarantee a fair playing field and to obtain the necessary leverage needed for bartering.

Once the advertising effort for the mobilization efforts have ceased and all media has been reconciled, the agency will compile a comprehensive summary. This will include the reach, frequency, total GRPs, spot total and dollar total for each market.

At the conclusion of the campaign, a postbuy analysis is conducted. Stations that underdeliver are required to submit post weight schedules. If feasible, these run during the subsequent campaign.



Because OHSP works with all law enforcement agencies – local police departments, county sheriff offices, and Michigan State Police, it is imperative that creative concepts and messages are representative and not strictly “Michigan State Police.” It is incumbent upon the Contractor to develop programs and promotions that, in the view of OHSP, warrant the expenditure of funds.

Contractor Response:

Our experience with OHSP and law enforcement agencies has been one of deep engagement, understanding and collaboration. Law enforcement representatives have often been contributors in the development of strategy and messages. Additionally, they have reviewed all final creative executions. We are careful that all visuals used in communications materials include representation of all state agencies. For example, television spots, posters, and images have consistently feature local police departments, county sheriffs, and state police officers and their vehicles. One goal of these inclusive references and imagery is to demonstrate that all areas of the state are united in strong enforcement efforts. A second goal is to ensure that every office and every unit at every level feels that they are an integral and engaged part of the campaign.

We have worked diligently with OHSP to develop programs and promotions that have engaged law enforcement agencies across Michigan. In the spring 2006 Mobilization Campaign, for example, 500 law enforcement agencies received a Mobilization Kit with materials that encouraged them to participate in the mobilization and engage local business, government and media partners. As a result, a record number of law enforcement agencies participated in the mobilization in extraordinary ways. Officers across the state reached into their communities and brought on board hundreds of local partners and businesses. Thousands of pizzas were delivered with “Buckle Up or Pay Up” mobilization reminder stickers on the box. Auto parts stores proudly displayed posters reminding customers not only to buckle up, but of the consequences and enhanced enforcement on the streets. Only with the right materials in hand, the right training, and the right motivation, was OHSP able to orchestrate such a pervasive grassroots communications effort. It could not have happened without engaged officers on board.

OHSP reserves the option to modify strategy or budget allocations as changes in crash data and safety belt use warrant and in response to changes to federal legislative appropriations and federal program objectives. OHSP shall always retain final authority for determining allocations of funds, strategies, plans, campaigns, etc.

Contractor Response:

We fully understand that OHSP must often modify campaign elements and messages as data or federal requirements dictate. In fact, we firmly believe that such adjustments to strategy, messaging, and tactics are required in order to maintain desired levels of behavioral change and refocus on hard-to-reach segments of the market. OHSP works in an ever-changing landscape of budgets, legislative action, and federal regulations. We understand the need to help OHSP respond to and navigate that landscape.

1.2 Roles and Responsibilities

1.201 Contractor Staff, Roles, and Responsibilities

The Contractor staff identified below will provide the services described in this Contract (also see organization chart in Article 1, Attachment B).

The Contractor staff, assigned to the OHSP account should be those that best meet OHSP’s needs. The State reserves the right to approve the Contractor’s assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State.

Contractor Response:

Jill Holden, Account Manager

Jill will be the lead contact for all OHSP projects, coordinating all strategic planning, presenting creative ideas and executions, developing project workplans and reports. Jill served as the account manager for all 2006 Mobilization Campaign activities performed by Pace & Partners.

**Dennis Pace, Principal & Creative Director**

Dennis has been a creative force involved in all phases of OHSP work since 2002 and will continue to provide strategic and creative leadership. His strategic thinking and creative direction have helped Pace & Partners collaborate with OHSP on successful campaigns that have assisted OHSP in reaching 94% safety belt use in Michigan, and he's also provided leadership on the ".08" and "You Drink, You Drive, You Lose." campaigns. Dennis will be engaged with each mobilization effort that requires new strategies and creative products. Dennis directs and manages all major creative work within the agency.

Lisa Crumley, Principal & VP of Business Intelligence

Lisa will continue to lead all research and strategic analysis for OHSP, as she has since we began working with them in 2002. Her role has been critical in developing the strategies and tactics for all OHSP Mobilization campaign components, and providing planning and creative guidance. Lisa will be engaged for each mobilization effort, leading any research needed, analyzing new and existing research, developing new strategies and tactics that help OHSP reach its goals. Lisa will also lead and manage all media planning and buying functions and be the key contact for research and media subcontractors.

Misi McClelland, Media Director/Planner

Misi will be the day-to-day contact for Pace/OHSP on all media-related activities. She will work with Pace & Partners to develop media strategies that assist in overall client objective. She is currently part of the team that helped the State of Michigan achieve 94% safety belt use in 2006. She has successfully managed OHSP's media planning and buying for 5 years.

Micci Lasser, Senior Media Buyer

As the dedicated Office of Highway Safety Planning media buyer, Micci will be responsible for all buying activities related to both the "Click It or Ticket" and "You Drink & You Drive. You Lose." campaigns. She has over 16 years' experience working in Michigan's media industry. She will actively pursue opportunities that help OHSP maintain its superior national ranking for safety belt use.

Jo Lynn Agee, Media Billing Coordinator

Working very closely with the Media Director and Senior Media Buyer, Jo Lynn is responsible for monitoring all administrative and billing activities associated with OHSP media buys. She will verify all vendor invoices spot-for-spot against what the agency purchased, as well as identify and correct any discrepancies.

Jack Helder, Ph.D., Copywriter/Producer

Jack will be a lead copywriter involved in concepting and developing OHSP campaign materials. He has been involved in various phases of OHSP creative and public relations since 2002, including radio production and creation of supporting materials for Mobilization efforts.

Amy Moore, Lead Designer/Art Director

Amy will participate in creative sessions and provide design vision and execution, as well as art direct any necessary photography, as she has since Pace & Partners began working with OHSP in 2002.

Brice Holland, Copywriter/Producer

Brice will provide continue to provide concepting and copywriting services on OHSP creative.

1.202 State Staff, Roles, and Responsibilities

OHSP's Communications Section will have responsibility for overseeing the planning and execution of all public relations/earned media activities related to traffic enforcement and traffic safety programs.

While evaluation will take place for all traffic enforcement campaigns supported by paid advertising, OHSP will handle this task independently by assessing traffic crash data, safety belt use direct observation surveys, and pre and post statewide telephone surveys.

1.203 Other Roles and Responsibilities

OHSP's funding agency, NHTSA, must review and approve all advertising creative and media buy plans in advance.



1.3 Project Plan

1.301 Project Plan Management

The Contractor will carry out this project under the direction and control of the Office of Highway Safety Planning.

Projects will be initiated using the following procedure:

- i. The Contractor will meet with OHSP key personnel for direction and to discuss the specifics of each project to be undertaken.
- ii. The Contractor will submit a detailed pricing estimate and timetable for each project to the OHSP key personnel. This estimate must include all costs associated with the project, with final costs not to exceed the amount of the estimate, unless prior approval is received in writing from the OHSP key personnel. Overtime will not be paid unless specifically identified and approved in writing by the OHSP key personnel before any work begins.
- iii. No work shall begin on any project before the OHSP key personnel have given formal approval and a work/expense authorization has been issued and signed.

Bidder Response:

We have developed a working relationship with the OHSP that includes frequent meetings and presentations to stakeholder law enforcement agencies. Often, these meetings involve collaborative brainstorming of strategy and tactics to both achieve buy-in across multiple stakeholder groups and to more effectively address OHSP and Federal objectives.

Each project undertaken with OHSP involves discussion of the scope of work, deliverables, constraints, and clear objectives. A not-to-exceed estimate is then provided to OHSP for each phase and component of a project. Once the estimate is approved, the work of Pace & Partners and its subcontractors adheres to that estimate, unless changes to the estimate or deliverables are directed by OHSP. The client is kept fully up to date on progress and budget along each stage of project deliverables. This has built a climate of trust in which there are no surprises in the way of deliverables or costs.

Although there will be continuous liaison with the Contractor team, the client agency's project director will meet monthly at a minimum, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.

Contractor Response:

Liaison with OHSP occurs as frequently as the OHSP requires. Normally, this is a weekly affair. During the ramp up to complicated campaigns or mobilization efforts, Pace & Partners often meets several times a week with OHSP, and communicates frequently by phone or email, as the situation requires. Pace & Partners supplies OHSP with ongoing status reports via email or in person to assure all projects needs and timing are met. Pace & Partners is ready to meet with OHSP as often as necessary.

The Contractor will submit brief written biweekly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the client agency's project director; and notification of any significant deviation from previously agreed-upon work plans. A copy of this report will be forwarded to the named buyer in Purchasing Operations.

Contractor Response:

Pace & Partners works to anticipate potential issues far in advance to keep OHSP informed and to address any issues before they arise. We are ready to provide the OHSP with summaries of work accomplished or in progress as often as necessary. This helps assure that Pace & Partners and OHSP staff are on the same page throughout the process of developing strategies, tactics and creative products.

1.302 Reports

1. The Contractor must respond to all deadlines established by OHSP for services provided under this contract. Timely and responsive follow up and execution are expected.



2. The Contractor will work with the Contract Compliance Inspector to obtain necessary review and approval in a timely manner.
3. Monthly status reports, including status of each project, budget information by purchase order/project, must be provided.
4. The Contractor is required to confer with OHSP upon request of the Contract Compliance Inspector, to initiate services, requests, review materials, review progress, discuss problems, obtain advice and counsel, etc.
5. Upon failure to meet a predetermined deadline, the Contractor must provide an explanation for such failure as soon as it is known and submit an updated project schedule to the Contract Compliance Inspector.
6. Report, in a timely manner, on the efficiency and effectiveness of all marketing, advertising, promotion, campaigns/project against the goals and objective established for the projects upon request of OHSP.

Contractor Response:

Pace & Partners has a track record for meeting client deadlines, providing timely responses and delivering materials when expected. We work with clients to schedule the adequate time needed, into the work plan/schedule, to review and approve materials. We provide clients with monthly status reports on each specific project. This includes tasks accomplished, issues that have been addressed and decisions that have been made. Pace & Partners also bills all clients on a monthly basis and detail costs for services provided under each purchase order. Our Project Manager and teams works collaboratively with our clients to provide market council and services requested. We understand and respect clients requests, needs, and right to review and approve all work. It is our goal to provide consistent, breakthrough ideas that help our client reach their goals. If a deadline is missed, Pace & Partners will provide the client/contractor with an explanation of circumstances and an updated project schedule. It is standard policy at Pace & Partners to provide clients with a summary report that reviews the overall success of the campaign in detail.

1.4 Project Management

1.401 Issue Management

Issues will be addressed when they arise and appropriate parties will be apprised of progress as described below.

Contractor Response:

OHSP serves the people of Michigan in a charged and shifting social and political landscape. This requires OHSP and its service providers to regularly address the issues that could possibly impact its work, and to devise strategies, tactics, and careful review of subject matter, language, and cultural representation that take these issues into consideration. Fortunately, OHSP stakeholders in law enforcement and the judicial system, as well as Pace & Partners' strategic staff, have a process in place to analyze, discuss and prioritize relevant issues before a project begins, and to establish a system to address them. For example, such an issue might be sensitivity to perceptions of racial profiling in law enforcement. Every effort is therefore made to ensure that issues of fairness and social equity are always anticipated in casting and in every aspect of creative executions. If unanticipated issues arise, we have systems in place to track them, report out to all stakeholders, and respond or take corrective action, as appropriate.

1.402 Risk Management

The Contractor's risk management process is described below.

Contractor Response:

Anticipating risks is a necessary requirement of providing professional services, and we have systems in place to take corrective action, when it is required. Before every project, Pace & Partners and OHSP stakeholders undertake a careful inventory of potential risks and develop appropriate contingencies. The risks may be as simple as weather impacting shooting schedules; to address this risk, for example, alternative dates and locations are always included in a work plan. Risks that are more complicated and difficult to anticipate call for constant monitoring and appropriate response. For instance, if an error were to be discovered in an Arabic translation in a TV spot, the error would be immediately corrected, and a revised version distributed to media partners. Or, if political issues arose from a particular TV treatment, meetings would be arranged to discuss appropriate responses, and, if necessary, revisions would be made and new spots released to media partners.



At Pace & Partners, our risk and issue management process involves 1) immediate notification of OHSP (or vice versa); 2) presentation to OHSP of mitigation options, including any actions requiring costs to be absorbed by the agency; 3) immediate corrective action, if needed; 4) immediate creation of a system that will mitigate future risk.

1.403 Change Management

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

1.5 Acceptance

1.501 Criteria

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

For each project, the Contractor first prepares an outline of activities, timelines and deliverables. For most work, the Contractor is required to prepare three concepts which OHSP reviews and chooses one. One (1) concept is taken to final art or script, which is generally routed for review and comment at least twice through OHSP. Once changes are made and reviewed, the concept will receive final approval from OHSP to move forward.

Before approving invoices for payment, the CCI will review deliverables, review project hours and team members' involvement in the project, and review invoices for pass through expenses to verify costs are accurate and do not reflect markups. The CCI will also ensure contractor's invoices include detailed information for the project

The State shall reimburse the contractor only for services and/or merchandise authorized by the State as evidenced by an estimate approved by the contract administrator or their authorized representative. Payment shall not exceed the amount approved by authorized estimate without submission and approval of a revised estimate.

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between OHSP and the Contractor.

The Contractor shall pass on to OHSP all reductions in cost, such as volume, early payment discounts, and/or unplaced media, in the fiscal year in which the originating expenses occurred.

The Contractor shall submit invoices for reimbursement not less frequently than monthly. All invoices shall be submitted with supporting documentation justifying costs to be reimbursed. Invoices for any work, services, or merchandise billable as of the end of any given monthly period shall be submitted not later than the tenth of the following month. The Contractor shall not invoice for work in progress unless specifically authorized by OHSP. Advance billing is not permitted.

The contractor shall allow 30 days from the date of receipt of accurate and complete invoices and backup by OHSP for receipt of payment. In addition, the Contractor may provide details for invoice discounts for early payment of monthly billings.

1.502 Final Acceptance - Reserved



1.6 Compensation and Payment

1.601 Compensation and Payment

Authorized Services and Price List, see Article 1, Attachment A.

Prices quoted are firm for the entire length of the Contract.

OHSP shall reimburse the Contractor for costs incurred plus mark-up (commission) based on the contract rates, only for services and/or merchandise authorized by OHSP as evidenced by an estimate approved in writing by OHSP. Payment shall not exceed the amount approved by authorized estimate without submission and approval of a revised estimate.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 Additional Terms and Conditions Specific to this SOW

The resulting Contract may require frequent deliveries to State of Michigan facilities. The Contractor must identify all measures utilized by their firm to ensure the security and safety of these buildings. This shall include, but is not limited to, performance of security background checks on all personnel assigned to State of Michigan facilities (i.e. delivery people) and how they are performed, what the security check consists of, the name of the company that performs the security checks, use of uniforms and ID badges, etc. If security background checks are performed on staff, the Contractor shall indicate the name of the company that performs the check as well as provide a document stating that each employee has satisfactorily completed a security check and is suitable for assignment to State facilities. Upon request by the State, the Contractor shall provide the results of all security background checks.

Upon review of the Contractor's security measures, the State will decide whether to issue State ID badges to the Contractor's delivery personnel or accept the ID badge issued to delivery personnel by the Contractor.

The State may decide to also perform a security background check. If so, the Contractor will be required to provide to the State a list of all delivery people that will service State of Michigan facilities, including name and date of birth (social security number of driver license number would also be helpful).

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities.

Contractor Response:

Both Pace & Partners staff and key staff of the partner organizations associated with this proposal have a long history of working with many state agencies. This includes security screening and clearances as required in a number of situations. We will comply with any and all requests by the state to provide background information relating to clearance for work related to this.



Article 1, Attachment A

Pricing

The State does not commit to purchasing in any amount listed.

All overhead and burden expenses are included in the hourly rates. All subcontracted work shall be passed through at "cost" no mark-up/commission of any kind.

Campaign/Project planning strategy

Strategy and planning session(s) with OHSP staff (typically planning is conducted for Click It or Ticket and again for You Drink & Drive. You Lose.)

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | | |
|---|--------------------|---|------------------------|---|--------------------|
| Creative Director: | \$100.00 | X | 15 | = | \$ 1,500.00 |
| Research/planning/strategy: | \$100.00 | X | 15 | = | \$ 1,500.00 |
| Account manager: | \$100.00 | X | 35 | = | \$ 3,500.00 |
| TOTAL FOR PLANNING STRATEGY SESSION: | | | | | \$ 6,500.00 |

Focus Group Testing

Four groups, two in Lansing, two in metro Detroit (generally young men, 18-34)

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | | |
|--|-----------------------|---|------------------------|---|---------------------|
| Research/planning/strategy: | \$100.00 | X | 55 | = | \$ 5,500.00 |
| Account manager: | \$100.00 | X | 35 | = | \$ 3,500.00 |
| Other: Clerical | \$ 55.00 | X | 30 | = | \$ 1,650.00 |
| Subcontract fees/services (such as facility rental, taping, transcripts, reports, etc.) | Fee/service: Research | | | = | \$20,000.00 |
| TOTAL FOR FOCUS GROUP TESTING: | | | | | \$ 30,650.00 |



30-second TV ad
Providing three distinct concepts, taking one concept to final copy and production

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|--|--------------------|---|------------------------|---------------------|
| Creative Director: | \$100.00 | X | 55 | = \$ 5,500.00 |
| Research/planning/strategy: | \$100.00 | X | 10 | = \$ 1,000.00 |
| Writer: | \$100.00 | X | 30 | = \$ 3,000.00 |
| Account manager: | \$100.00 | X | 35 | = \$ 3,500.00 |
| Production coordination: | \$100.00 | X | 25 | = \$ 2,500.00 |
| Producer/director: Subcontracted (responsible for set design, props, lighting, talent, music, location, scouting, props, makeup, wardrobe, etc.) | | | | = \$10,000.00 |
| Broadcast Production: Subcontracted | | | | =\$12,000.00 |
| Price for 1-20 DVDs (price per DVD) | | | | \$ N/A (included) |
| TOTAL FOR 30-SECOND TV AD: | | | | \$ 37,500.00 |

60-second radio ad
Providing three distinct concepts, taking one concept to final copy and production

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|---|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 8 | = \$ 800.00 |
| Writer: | \$100.00 | X | 12 | = \$ 1,200.00 |
| Account manager: | \$100.00 | X | 10 | = \$ 1,000.00 |
| Audio Production, editing: Subcontracted | | | | = \$ 2,500.00 |
| Price for 1-20 CDs (price per CD) | | | | \$ N/A (included) |
| TOTAL FOR 60-SECOND RADIO AD: | | | | \$ 5,500.00 |

60-second radio ad – translate and record in Arabic and Spanish

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|---|--------------------|---|------------------------|--------------------|
| Account manager: | \$100.00 | X | 8 | = \$ 800.00 |
| Audio Production, editing: Subcontracted | | | | = \$ 3,000.00 |
| Price for 1-20 CDs (price per CD) | | | | \$ N/A (included) |
| TOTAL FOR RADIO AD TRANSLATIONS AND RECORDING: | | | | \$ 3,800.00 |



30-second radio/announcement reader script
Providing three distinct concepts, taking one concept to final copy

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|---------------------------------------|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 2.5 | = \$ 250.00 |
| Writer: | \$ 100.00 | X | 8 | = \$ 800.00 |
| Account manager: | \$100.00 | X | 4 | = \$ 400.00 |
| TOTAL FOR RADIO READER SCRIPT: | | | | \$ 1,450.00 |

Billboard (four-color)
Providing three distinct concepts, taking one concept to final

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|------------------------------------|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 10 | = \$ 1,000.00 |
| Art Director: | \$100.00 | X | 20 | = \$ 2,000.00 |
| Account manager: | \$100.00 | X | 8 | = \$ 800.00 |
| Other: Production | \$100.00 | X | 4 | = \$ 400.00 |
| TOTAL FOR BILLBOARD DESIGN: | | | | \$ 4,200.00 |

11 x 17 Poster (four-color)
Providing three distinct concepts, taking one concept to final (do not include printing)

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|---|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 6 | = \$ 600.00 |
| Art Director: | \$100.00 | X | 14 | = \$ 1,400.00 |
| Account manager: | \$100.00 | X | 8 | = \$ 800.00 |
| Other: Production | \$100.00 | X | 4 | = \$ 400.00 |
| TOTAL FOR 11 X 17 POSTER DESIGN: | | | | \$ 3,200.00 |



Two-sided flyer (four-color)
Providing three distinct concepts, taking one concept to final (do not include printing)

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|--------------------------------|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 4 | = \$ 400.00 |
| Art Director: | \$100.00 | X | 12 | = \$ 1,200.00 |
| Account manager: | \$100.00 | X | 8 | = \$ 800.00 |
| Other: Production | \$100.00 | X | 8 | = \$ 800.00 |
| TOTAL FOR FLYER DESIGN: | | | | \$ 3,200.00 |

4' x 8' Banner (four-color)
Providing three distinct concepts, taking one concept to final (do not include printing)

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | |
|---|--------------------|---|------------------------|--------------------|
| Creative Director: | \$100.00 | X | 2 | = \$ 200.00 |
| Art Director: | \$100.00 | X | 6 | = \$ 600.00 |
| Production coordination: | \$100.00 | X | 4 | = \$ 400.00 |
| TOTAL FOR 4' X 8' BANNER DESIGN: | | | | \$ 1,200.00 |



**Packaging design (four-color) – Standard binder size inserts – cover and spine
Providing three distinct concepts, taking one concept to final (do not include printing)**

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | | |
|------------------------------------|--------------------|---|------------------------|------|--------------------|
| Art Director: | \$100.00 | X | 4 | = \$ | 400.00 |
| Account manager: | \$100.00 | X | 4 | = \$ | 400.00 |
| Other: Production | \$100.00 | X | 2 | = | \$ 200.00 |
| TOTAL FOR PACKAGING DESIGN: | | | | | \$ 1,000.00 |

**Display Design
Artwork design for a special event display (do not include actual display or hardware)**

| <u>CATEGORY</u> | <u>HOURLY RATE</u> | | <u>EST. # of HOURS</u> | | |
|----------------------------------|--------------------|---|------------------------|------|--------------------|
| Creative Director: | \$100.00 | X | 8 | = | \$ 800.00 |
| Art Director: | \$100.00 | X | 20 | = \$ | 2,000.00 |
| Account manager: | \$100.00 | X | 10 | = \$ | 1,000.00 |
| Other: Production | \$100.00 | X | 10 | = | \$ 1,000.00 |
| TOTAL FOR DISPLAY DESIGN: | | | | | \$ 4,800.00 |

Other staff/hourly rates that may be devoted to this project:

| | | | | | |
|---------------------------|----------|---|-----|---|-------------|
| Print Production Manager: | \$100.00 | X | 100 | = | \$10,000.00 |
| Research Analyst: | \$100.00 | X | 50 | = | \$ 5,000.00 |

MEDIA PLACEMENT SERVICES:

Bid Commission Rate = 6.5%

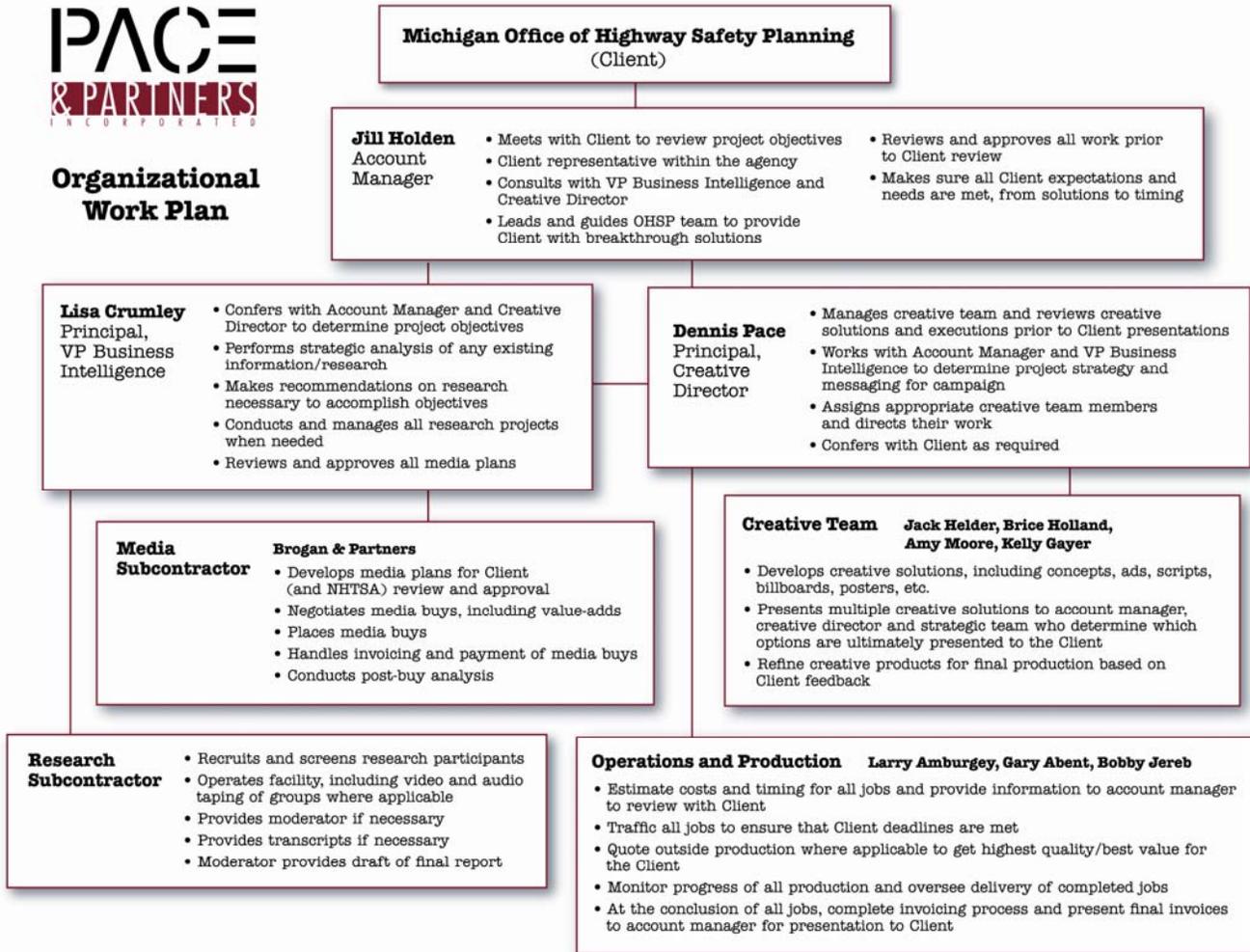
The Contractor will provide \$10,000 for donated professional services.



Article 1, Attachment B
Organizational Chart, including Key Personnel



Organizational Work Plan





Article 1, Attachment C, D, E & F - Reserved



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

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

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates attached as **Article 1, Attachment A**.
- (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, Purchasing Operations ("DMB-PO") and Michigan State Police (MSP), Office of Highway Safety Planning (OHSP), (collectively, including all other relevant State of Michigan departments and agencies, the "State"). DMB-PO is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **DMB-PO 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 Purchasing Operations for this Contract is:

Melissa Castro, CPPB
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: castrom@michigan.gov
Phone: 517-373-1080

2.015 Contract Compliance Inspector

Upon receipt at DMB-PO of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with OHSP, 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 Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Anne Readett
Office of Highway Safety Planning
P.O. Box 30633
Lansing, MI 48909
readetta@michigain.gov
(517) 333-5317

2.016 Project Manager - Reserved

2.020 Contract Objectives/Scope/Background

2.021 Background - Reserved

2.022 Purpose - Reserved

2.023 Objectives and Scope - Reserved

2.024 Interpretation - Reserved



2.025 Form, Function and Utility

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

2.030 Legal Effect and Term

2.031 Legal Effect

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

2.032 Contract Term

This Contract is for a period of three (3) years beginning February 9, 2007 through January 31, 2010. 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 30 days before its expiration. The Contract may be renewed for up to two (2) additional one (1) year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel

2.041 Contractor Personnel

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

(b) Key Personnel

- (i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Article 1, Attachment B** provides an organization chart showing the roles of certain Key Personnel, if any.
- (ii) Key Personnel shall be dedicated as defined in **Article 1, Attachment B** 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 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 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 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 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 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 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, Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

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



Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

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

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

2.045 Contractor Responsibility for Personnel

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

2.050 State Standards

2.051 Existing Technology Standards

The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://www.michigan.gov/dit>.

2.052 PM Methodology Standards - Reserved

2.053 Adherence to Portal Technology Tools - Reserved

2.054 Acceptable Use Policy

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

2.060 Deliverables

2.061 Ordering

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

2.062 Software - Reserved

2.063 Hardware - Reserved

**2.064 Equipment to be New and Prohibited Products - Reserved**2.070 Performance**2.071 Performance, In General**

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

2.072 Time of Performance

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

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

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

2.073 Liquidated Damages - Reserved**2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within 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)- Reserved2.080 Delivery and Acceptance of Deliverables**2.081 Delivery Responsibilities – Reserved**



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 - Reserved

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 100 pages or less and 10 Business Days for Written Deliverables of more than 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 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 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 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 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 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 rates provided in Article 1, Attachment A. 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 A**, unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered:

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

(d) Labor Rates:

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

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

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

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment A**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

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

(b) Taxes

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

(c) Out-of-Pocket Expenses

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



(d) Pro-ration

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

(e) Antitrust Assignment

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

(f) Final Payment

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

2.093 State Funding Obligation

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

2.094 Holdback – Reserved

2.095 Electronic Payment Availability

Public Act 533 of 2004 requires that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website (www.cpexpress.state.mi.us).

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 the project plan is likely to delay the timely achievement of any Contract tasks.

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

2.102 Problem and Contract Management Procedures

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

2.103 Reports and Meetings - Reserved



2.104 System Changes - Reserved

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, Purchasing Operations.



(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 - Reserved

2.110 Records and Inspections

2.111 Records and Inspections

(a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with 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 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 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 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 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 10%, then the Contractor shall pay all of the reasonable costs of the audit.



2.120 State Responsibilities

2.121 State Performance Obligations

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

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

(c) **Return.** Contractor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

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

2.130 Security

2.131 Background Checks

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

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

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



2.152 Confidentiality

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

2.153 Protection of Confidential Information

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

2.154 Exclusions

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

2.155 No Implied Rights

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

2.156 Remedies

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



2.157 Security Breach Notification

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

2.161 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 this Contract, 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 Source Code Escrow - 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 - Reserved****2.165 Standard Software - Reserved****2.166 Pre-existing Materials for Custom Software Deliverables - Reserved****2.167 General Skills - Reserved**2.170 Warranties And Representations**2.171 Warranties and Representations**

The Contractor represents and warrants:

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

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

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

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.



(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

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

2.172 Software Warranties - Reserved

2.173 Equipment Warranty - Reserved

2.174 Physical Media Warranty - Reserved

2.175 Standard Warranties - Reserved

2.176 Consequences For Breach

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

2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

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

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

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

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



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

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

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

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, 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 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

1. Commercial General Liability with the following minimum coverage:

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

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

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

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

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

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

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

4. Employers liability insurance with the following minimum limits:

\$100,000 each accident
 \$100,000 each employee by disease
 \$500,000 aggregate disease



5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).
6. Umbrella or Excess Liability Insurance in a minimum amount of five million dollars (\$5,000,000.00), 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 Purchasing Operations 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 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 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 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 (2) times the value of the Contract. 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 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 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 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 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 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 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 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 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 **Article 1, Attachment A**. 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 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 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 Reserved2.250 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 Purchasing Operations, 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 60 calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within 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 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

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

- (i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:
 - (A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and
 - (B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

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

- (1) Within 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 Purchasing Operations.
- (2) Contractor shall also notify Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor shall also notify Purchasing Operations within 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 - Reserved**2.290 General**2.291 Amendments**

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

2.292 Assignment

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

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

2.293 Entire Contract; Order of Precedence

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

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

**2.294 Headings**

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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

2.296 Notices

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

State:

State of Michigan
Purchasing Operations
Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor:

Pace & Partners
Attn: Debbie Horak
1223 Turner Street, Suite 101
Lansing, MI 48906

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

(b) Binding Commitments

Representatives of Contractor identified in Article 1, Attachment B 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

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

**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 - Reserved

**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 - Reserved**2.322 State Employee Purchases - Reserved**

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements

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

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

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

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

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

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



Exhibit A
Approved Subcontractors

Brogan & Partners Convergence Marketing
325 S. Old Woodward
Birmingham, MI 48009

Margo E. Williams & Associates, Inc.
Ford Building
615 Griswold, Suite 820
Detroit, MI 48226

SUCH Video Inc.
111 East Grand River Avenue
Lansing, MI 48906

Rasikas Motion Picture Design & Production
820 Monroe NW, Suite 402
Grand Rapids, MI 49503

Harvest Music & Sound Design
5501 South Cedar Street
Lansing, MI 48911

Crimmins & Forman Market Research, Inc.
29955 Southfield Road
Southfield, MI 48076