

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B7200311
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Any AWOS Mackinac Software, LLC 1000 Long Blvd, Suite 9 Lansing, MI 48911	Bill McUumber	wem@mackinacsoftware.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 268-1286	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOT	Steve Schultz	(517) 335-9627	
BUYER	DTMB	Angela Buren	(517) 373-0325	Burena@michigan.gov

CONTRACT SUMMARY:				
DESCRIPTION: AWOS Data Collection and Distribution – Department of Transportation				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
August 1, 2007	July 31, 2010		July 31, 2012	
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM	
N/A	N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS:				
N/A				

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>	5 months	Dec. 31, 2012
VALUE/COST OF CHANGE NOTICE:		ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:		
\$0.00		\$343,560.00		
Effective July 31, 2012, this contract is hereby EXTENDED 5 months to December 31, 2012. All other terms and conditions remain the same. Per vendor and agency agreement and the approval of DTMB Procurement and the approval of the State Administrative Board on August 21, 2012.				

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

May 18, 2011

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B7200311
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Any AWOS Mackinac Software, LLC 1000 Long Blvd., Suite 9 Lansing, MI 48911 wem@mackinacsoftware.com	TELEPHONE (517) 268-1286 Bill McUmbert
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Steve Schultz (517) 335-9627 AWOS Data Collection and Distribution – Department of Transportation	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2012	
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 through July 31, 2012.

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

AUTHORITY/REASON(S):

Per agency request, Contractor agreement, and DTMB/Purchasing Operations' approval.

ESTIMATED CONTRACT VALUE REMAINS: \$343,560.00

**Contract 071B7200311
Change Notice No. 2
Signature Block**

FOR THE CONTRACTOR:

Mackinac Software, LLC

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Natalie Spaniolo, Acting Director

Name/Title

DTMB - Purchasing Operations

Division

Date

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

June 3, 2010

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B7200311
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Any AWOS Mackinac Software, LLC 1000 Long Blvd., Suite 9 Lansing, MI 48911 wem@mackinacsoftware.com	TELEPHONE (517) 268-1286 Bill McUmbert
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Steve Schultz (517) 335-9627 AWOS Data Collection and Distribution – Department of Transportation	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2011	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effective immediately, this contract is hereby **EXTENDED** to July 31, 2011 and **INCREASED** by \$86,000.00. All other terms, conditions and specifications remain the same.

AUTHORITY/REASON(S):

Per request of MDOT and Ad board approval on June 1, 2010.

INCREASE: \$86,000.00

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$343,560.00

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

July 30, 2007

**NOTICE
 TO
 CONTRACT NO. 071B7200311
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Any AWOS Mackinac Software, LLC 1000 Long Blvd., Suite 9 Lansing, MI 48911 <p style="text-align: right;">wem@mackinacsoftware.com</p>	TELEPHONE (517) 268-1286 Bill McUmbert
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Steve Schultz (517) 335-9627 AWOS Data Collection and Distribution – Department of Transportation	
CONTRACT PERIOD: From: August 1, 2007 To: July 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>	

The terms and conditions of this Contract are those of ITB #071I7200133, this Contract Agreement and the vendor's quote dated 3/6/2007. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$257,560.00**

**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. 071B7200311
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Any AWOS Mackinac Software, LLC 1000 Long Blvd., Suite 9 Lansing, MI 48911 <p style="text-align: right;">wem@mackinacsoftware.com</p>	TELEPHONE (517) 268-1286 Bill McUmbert VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Steve Schultz (517) 335-9627 <p style="text-align: center;">AWOS Data Collection and Distribution – Department of Transportation</p>	
CONTRACT PERIOD: From: August 1, 2007 To: July 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: <p>The terms and conditions of this Contract are those of ITB #071I7200133, this Contract Agreement and the vendor's quote dated 3/6/2007. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Estimated Contract Value: \$257,560.00</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I7200133. Orders for delivery will be issued directly by the Department of Transportation through the issuance of a Purchase Order Form.

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

<p>FOR THE VENDOR:</p> <p style="text-align: center;">Any AWOS/Mackinac Software, LLC _____ Firm Name</p> <p style="text-align: center;">_____ Authorized Agent Signature</p> <p style="text-align: center;">_____ Authorized Agent (Print or Type)</p> <p style="text-align: center;">_____ Date</p>	<p>FOR THE STATE:</p> <p style="text-align: center;">_____ Signature Melissa Castro, CPPB, Buyer Manager _____ Name/Title Services Division, Purchasing Operations _____ Division</p> <p style="text-align: center;">_____ Date</p>
--	--



STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations

Contract No. 071B7200311
AWOS Data Collection and Distribution

Buyer Name: Jim Wilson
Telephone Number: 517-241-1916
E-Mail Address: wilsonj4@michigan.gov



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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

The purpose of this Contract is provide and install (if necessary) network communications services for the interface and collection of data elements from State of Michigan, Department of Transportation (MDOT) owned Automated Weather Observation System (AWOS IIIP and IIIPT), distribution of the resulting data sequences in the METAR (Aviation Routine Weather Report) format, to the Federal Aviation Administration (FAA) Weather Message Switching Center Replacement (WMSCR), and maintenance of the network systems..

1.002 Background

MDOT has developed an All-Weather Airport Access Plan. A major component of this plan is accurate and reliable weather reporting and dissemination. Under this plan, MDOT has installed and operates 36 AWOS IIIP and one (1) AWOS IIIPT. Of those 36 AWOS IIIP, 15 are Vaisala Model V-B and 21 are Vaisala Model V-C. The AWOS IIIPT is also a Vaisala Model V-C. The locations of these 37 systems are listed in Exhibit 1.

1.1 Scope of Work and Deliverables

1.101 In Scope

AWOS IIIP data sequences must be acquired three (3) times per hour, at 20 minute intervals, 24 hours a day, every day of the year, at all 37 current and future State owned AWOS IIIP and IIIPT, with one exception. Sawyer International Airport (SAW), located in Gwinn, Michigan, has the only AWOS IIIPT, and also has an FAA Air Traffic Control Tower that is required to be the official observation for the airport, during their hours of operation, which is from 6:00 AM through 10:00 PM local time. Therefore, the Contractor will collect the data elements at this location, every 20 minutes from 9:55 PM through 5:55 AM local time in Gwinn. Once collected, the Contractor will distribute the resultant data sequences from Sawyer, with the data sequences from the other 36 AWOS, in the METAR format, to the FAA WMSCR. While the number of State owned AWOS currently stands at 37, and initially the Contractor will provide contracted services for all 37, at any time throughout the term of this contract, future locations may be added, and/or current locations removed from this service. It is necessary for the communication network to interface and collect data elements from the current AWOS IIIP's and IIIPT, and must be capable of providing the same interface and data element collection from AWOS IV's.

To perform these requested services, the Contractor will perform two (2) basic functions, 1) provide and install the products necessary to perform the services, and 2) the operations of the services requested, including maintenance of any necessary products.

1.102 Out of Scope - Reserved

1.103 Environment - Reserved

1.104 Work and Deliverables

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:

A. Installation Requirements:

Interface:

Any service and/or products provided by the Contractor must interface with the current and future State owned AWOS, and perform the functions according to this RFP, but cannot in any way, interfere with the operation of the AWOS. The Contractor will retain ownership of any hardware or software provided, which includes necessary surge and lightning protection equipment (in accordance with the Paragraph entitled "Install the Products" later in this section). This hardware, software, and surge and lightning protection equipment will hereinafter be referred to as the Products.



Contractor Response to Task:

Mackinac Software will provide a Weather Nexus airport computer for each airport listed.

Mackinac Software will retain ownership of the computers per the specification above.

Weather Nexus collects METAR observations from any approved RS-232 interface provided by the AWOS. For Vaisala AWOS systems, this interface is called the "NADIN Port".

Weather Nexus connects to and collect observations as they become available (typically one per minute) from the NADIN port as shown in Illustration 1. The NADIN port is located inside of the airport premises building, out of the elements. We assume all grounding and lightening protection is already in place between the AWOS sensor devices and the NADIN port inside of the airport building, since the AWOS's have been operating with this equipment for a number of years. The Weather Nexus airport computer accesses the AWOS only via the NADIN port in a read-only fashion, using standard off the shelf RS-232 cables, which are properly grounded and shielded. Similarly, the telephone line used by Weather Nexus for data collection will be properly conditioned by Telco before termination within the building. The telephone line is not connected to the AWOS equipment directly, only to the Weather Nexus airport computer.

Install the Products:

If on site Products are necessary to perform the services requested in this RFP, the Contractor will supply and install those Products necessary, in a manner that is satisfactory with the Airport Owner and/or Fixed Base Operator, and Aeronautics (see the paragraph entitled "Coordination with Airport Owner and Clean Up" in Task C for further details). The Contractor must take all precautions necessary to protect the Products and all structures (including any buildings that house the Products), from damage, and protect all occupants from harm caused by lightning induced transients transmitted through the Products. In designing a protection plan, the contractor is urged to use the "National Electrical Code (NEC 2005)", "Lightning Protection, Grounding, Bonding, and Shielding Requirements for Facilities (FAA STD-019C)", and "Standard for the Installation of Lightning Protection Systems 2000 Edition (NFPA 780)".

Contractor Response to Task:

Installation of Weather Nexus products is simple and easy, requiring no clean up and very little disruption to normal airport operations. If new phone lines are required, they will be ordered and installed in cooperation with state and local airport officials. As described in the last response, both the NADIN port and the telephone line should be properly terminated within the airport building. No further conditioning or protection is required. Weather Nexus does not require direct access to any equipment outside of the airport building (such as the AWOS itself or satellite dishes).

B. Operations Requirements:

Data Collection:

The Contractor must provide a primary system for the collection of current AWOS data from all current and future State owned AWOS, three (3) times per hour at 20 minute intervals 24 hours per day (with the exception of Sawyer International Airport). The Contractor must be able to collect the data from all sites at 15 minutes after each hour, 35 minutes after each hour, and 55 minutes after each hour. When the primary system of data collection fails at one (1) or more locations, the Contractor must have a means available to detect this system failure, and continue to collect the data elements at those one or more sites, through a backup system consisting of automatic telephone dial up. The only exception to this requirement would be if the primary system selected is by automatic telephone dial up, then no backup system is required.

Contractor Response to Task:

The Weather Nexus central server uses automatic telephone dial up to call each airport to collect observations based on a flexible schedule stored in a database. It should be noted that our method of direct telephone dial up is markedly different than other vendors' direct dial up solutions. Our method accesses only the read-only RS-232 NADIN port via a proprietary communication board in the any AWOS Weather Nexus computer (see Illustration 1),



using a telephone line terminated in the airport building, rather than sharing the maintenance line of the AWOS and accessing it directly. It is technically impossible to send commands to the AWOS through the NADIN port; likewise it is impossible for anyone to maliciously or accidentally send commands from the telephone to the Weather Nexus computer.

The Central Server will collect METAR observations from all 37 airport locations 3 times per hour, 24 hours per day, 7 days a week, according to the schedule provided by the state. The observations are batched and sent to WMSCR every 20 minutes. At the State's option, we will collect the most recent one minute observation, or the observation time stamped as 15, 35, and 55 after the hour. If any of the 37 METAR observations is not available, the remainder will be sent, the anyAWOS server will detect the missing observation, and immediately send email to both Mackinac Software and the State so that they can determine the cause of the outage.

Failures are detected on several different levels, but all detection is immediate. If a complete METAR is not ready after contacting an airport, for whatever reason, another call is immediately scheduled and made typically within the minute; meanwhile other airports continue to be called. Corrupted data is never sent, as described in the next section, unless the AWOS itself produces the bad data, and we can identify that too, if required. Collection of METAR data is also not phone line-specific, so in the event of a complete failure of the airport Telco line, Weather Nexus can use an alternate phone line if one is available. The switchover to the alternate line is almost as quick as moving the RJ-11 phone plug. No other system can match Weather Nexus's transmission flexibility and certainty of reporting AWOS METAR data.

Data Distribution:

The Contractor will distribute collected weather data sequences in METAR format, every 20 minutes, or sooner, to the FAA WMSCR. The contractor will ensure that METAR throughput will be at a minimum of 98%. If the Contractor cannot meet this requirement for every option they provide, they must indicate the expected percentage of throughput in describing each option.

Contractor Response to Task:

Upon collection of all 37 observations (or as many as were read in the specified time period), the observations will be sent to anyAWOS's NADIN access point located at Indianapolis ARTCC, ZID. See diagram in Attachment I.

At this time, Mackinac Software is one of only 2 vendors with permission from the FAA to send data to WMSCR. As part of the acceptance process, Mackinac Software has gone through a security review and rigorous testing in order to be granted access to the NADIN network. Attachment II shows the report from the FAA indicating the results of testing; Attachment III shows the first few pages of the Memorandum of Agreement with the FAA, which grants permission for Mackinac Software to send in weather data to WMSCR.

Since the FAA has only recently granted permission for Mackinac Software's connection, we have no production statistics on reliability. However, we have conducted extensive testing over a period of several months.

There are two sources of communication failures: AWOS to server, and server to NADIN node. The connection from server to NADIN node is over a dedicated line, with automatic retry of dropped packets, so the chance of error in this section is extremely low. During FAA testing, there were no observed errors of this kind (100% throughput), except for deliberately induced errors by physically pulling connections out. The FAA is understandably concerned about errors in the NADIN network, which is why they require extensive testing before granting permission for anyone to connect. The FAA was satisfied by Mackinac Software's performance in testing, as indicated in Attachment II.

A more likely source of errors (in any scheme) is between the AWOS and the central server. In an automatic dial up system, errors could be introduced by noisy phone lines, or by contention for use of the telephone line by other users (AWOS maintenance, pilots calling for weather). Weather Nexus employs several techniques to ensure high data integrity to take care of both errors induced by noisy phone lines, and unavailability of data due to phone line contention.



While testing in summer of 2005, there were 12,988 transmissions, 0 errors, for an observed throughput rate of 100%. This rate was obtained even while sharing telephone lines with the WSI system. More details on errors, reliability, and throughput are given in Article 1, Attachment A.

Maintenance Services:

The Contractor will repair, adjust, and maintain the Products (or provide for same). Such on demand repairs and maintenance shall be of such quality that the Products remain in good working order and are able to function in accordance with the specifications for such Products when they are new. The Contractor shall be responsible for telephone lines, broadcast facilities, and any other equipment connected to or used with this weather data system that was provided or arranged for by the Contractor. Should any Product become defective, the Contractor shall replace the defective Product(s), and pay the cost of shipping the replacement Product(s), at no additional cost to the State or the local community where the Product(s) is located. When it is necessary for the Contractor, or their representative, to provide for on demand corrective maintenance that involves the assistance of someone who works at the airport or an onsite technician, it will do so during the normal business hours of the airport where the defective Product is located, unless other prior arrangements are made with the airport. Any loss of data collection and/or distribution service of any system, or malfunction of any Product, shall be defined as a system outage. Once the Contractor receives notification of a system outage, it shall contact the affected airport(s) within a maximum of three (3) Contractor business hours to begin to determine the cause of the outage. When necessary, the Contractor will provide a qualified technician onsite within 48 hours of notification (not counting weekends and holidays).

Contractor Response to Task:

As indicated earlier, corrupt or missing data is immediately re-acquired. If acquisition continually fails, Weather Nexus produces an immediate notification so that action can be taken to correct the problem. If the problem is telephone line related, Telco will be contacted immediately. In the meantime, an alternate phone line could be temporarily used to collect data if such a line is available.

Our maintenance plan for the Weather Nexus airport computer is predicated on the operational simplicity of the device (three connections: power, phone line, and a DB 25 data plug). Maintenance is anticipated to be rare – test systems ran continuously for several months without a failure. On the occasions when it is necessary, most problems can be resolved with a power cycle reboot, or if necessary, substitution of the entire airport Weather Nexus computer via Fed Ex overnight (at our expense). When this is not possible, Mackinac Software personnel will be onsite the same day or next day. In order for onsite work to proceed on a speedy basis, Mackinac Software may require keys, codes, and other access procedures so we can get to the Weather Nexus computer, which should be located in the airport building.

One of the key design principles for Weather Nexus was simplicity from a user standpoint. In maintenance situations this pays big dividends to the end user because replacement of an entire unit is very quick and easy, and costs can be kept low. Even when airport personnel are not available, this means you can have a high confidence of getting back online quickly with no glitches. Although Mackinac Software's personnel are very experienced, that experience level is not required to replace the airport computer.

C. Coordination with Airport Owner and Clean Up:

During all phases of the installation and maintenance of the Contractor supplied Products, the Contractor shall coordinate its activities with the Airport Owner. Disruption of normal activity shall be kept to a minimum, but safety shall be the first priority. When the Contractor conducts Product removal, installation, and/or onsite maintenance, it shall remove from the site, all surplus and discarded materials, equipment, rubbish, and temporary structures; and all parts of the work shall be left in a condition acceptable to the Airport Owner. The Contractor shall restore the site, including paved and unpaved areas to their original condition upon completion of the removal, installation, or maintenance. Should it be necessary for the Contractor to depart for the day, and must leave the Products and/or structure in a partial state of removal, installation, and/or maintenance, the Contractor must clean up to the point that ensures no damage will come to the Products, nor any harm will come to any persons, equipment, or structures.

**Contractor Response to Task:**

The Weather Nexus computer is approximately the size of the Lansing phone book as shown in Illustration 2. It requires:

1. A standard, grounded, 3-prong power plug
2. A phone line using a standard RJ-11 phone jack.
3. Connection to the NADIN port via a DB-25 connector and cable, which we will supply.

Illustration 1 shows the three connections on the rear of the machine. The computer has no keyboard or display and is very unobtrusive. All the installer has to do is find a suitable location in the building near the NADIN port, phone, and power to place the computer. The Weather Nexus computer will typically be located on a shelf or in a cabinet. Consequently, cleanup is not an issue. Mackinac Software and the telephone company will coordinate with airport and MDOT personnel if phone line installation is necessary.

On-Site Maintenance of Contractor Supplied Products:

Should on-site maintenance of the Contractor supplied Products be necessary, the Contractor may solicit the assistance of someone locally to provide this on-site maintenance. Per the terms listed in Section 1.203, assistance of someone locally is at their discretion. Should no one locally agree to provide this assistance, the Contractor may contact the Contract Administrator to solicit the assistance of MDOT personnel with this necessary maintenance. Should the Contract Administrator elect not to provide MDOT assistance, or no MDOT personnel are available for assistance, the Contractor is responsible to dispatch their own maintenance personnel to attend to the necessary maintenance. This Contractor representative must arrive on-site within 48 hours of their becoming aware of the necessary maintenance, per the terms in Maintenance Services of Task C above.

Contractor Response to Task:

Mackinac Software will maintain spare replacement Weather Nexus computers, should the need to replace one arise. As indicated above, if MDOT or airport personnel opt to replace Weather Nexus computers, the procedure is very simple. If not, Mackinac Software personnel will be onsite for replacement within

Shipment of Products to be Returned to the Contractor:

Should it become necessary to return a Product item (defective or otherwise), to the Contractor, and someone locally or MDOT personnel agree to package this item for return, the Contractor will issue a pickup notice with their preferred package carrier to have the item shipped. Neither the local community, nor MDOT, is required to ship the item at their expense.

Contractor Response to Task:

Mackinac Software agrees that they will provide packaging material, arrange for pick up of packages for return and ship at their expense.

Notification of MDOT Regarding Missing METAR Sequences:

When the Contractor becomes aware of any missing METAR sequences, they must notify MDOT within one (1) Contractor business hour of this missing sequence. This notification may be by telephone or electronic mail (e-mail).

Contractor Response to Task:

The Weather Nexus server monitors data transmissions, and schedules retransmissions from each airport as required. If all retransmissions within the collection time period fail, it indicates a missing METAR sequence, and the Weather Nexus server will send email to both Mackinac Software and MDOT. This is done automatically 24 hours a day, 7 days a week, exceeding the bid requirement.



D. Contractor Responsibility Regarding AWOS Maintenance:

The Contractor shall not be responsible for failure or maintenance of the AWOS itself, UNLESS it is determined that a failure to the AWOS was caused by, 1) the contractors interface and/or communications network, and/or 2) improper protection from lightning or surge induced transients transmitted through the Products. Should a failure to the AWOS occur which was caused by 1) or 2), MDOT will perform the necessary repairs, and invoice the Contractor for all expenses to restore the AWOS to service.

Contractor Response to Task:

Since the anyAWOS Weather Nexus computer interfaces with the AWOS only in a read-only mode via the NADIN port, it is difficult to imagine any scenario where it would be possible for the Weather Nexus machine to interfere in any way with the operation of the AWOS. Further, since the electrical and surge protection is provided within the airport building (not at the site of the AWOS sensors out in the weather), lightning and surge damage to the AWOS via the box inside the building is also not a concern. If the State believes that the AWOS has been damaged by the Weather Nexus system, State will provide proof of such, and Mackinac Software will be responsible for repairs.

E. Timely Notification of WMSCR:

The Contractor will notify WMSCR, in a timely manner, when they have been notified by MDOT of any new sites that will be added to this contract, and where data collection and dissemination will be required. The Contractor will coordinate the addition of this site with WMSCR so that upon initial commissioning of the site, the METAR sequence will be available through WMSCR within two (2) days after the site is commissioned.

Contractor Response to Task:

Mackinac Software will notify WMSCR of any addition to the AWOS network as soon as we are contacted by MDOT. The process will proceed as follows:

- (a) MDOT notifies Mackinac Software of the new airport
- (b) Mackinac Software coordinates with WMSCR and MDOT to assign a new airport ID, if required.
- (c) Mackinac Software prepares a new Weather Nexus computer for the site.
- (d) Mackinac Software coordinates with MDOT and the local airport for a new phone line, if required.
- (e) As soon as the Weather Nexus computer and phone line are available, the computer will be installed.
- (f) Collection of data will start as soon as all parts are operational.

Mackinac Software will coordinate addition of new sites with MDOT personnel and WMSCR to determine timing and expected commission dates. Mackinac Software may, at its discretion, begin collection data from the new site onto the Mackinac Software server as soon as METAR data are available, even though WMSCR may prohibit inclusion of data in WMO 386 blocks before the AWOS is fully commissioned by the FAA. That way, upon final approval by the FAA of the AWOS system, data may be disseminated to WMSCR immediately, exceeding the two day requirement.

1.2 Roles and Responsibilities

1.201 Contractor Staff, Roles, and Responsibilities

Contractors provide a list of all personnel involved with providing and installing the Products necessary to perform the services requested in this RFP, as well as a list of all personnel involved with the operations of the services requested. Included in this list will be a description of each person's job function, (and not just by title), as it pertains to the services requested. Also included will be each person's phone number and email address.



Contractor Response:

Dr. William McUmbler

Title: Managing partner (co-owner)

Email: wem@mackinacsoftware.com

Phone: (517) 268-1287

Dr. Marilyn Wulfekuhler

Title: Managing partner (co-owner)

Email: marilyn@mackinacsoftware.com

Phone: (517) 268-1286

Mr. Robert McUmbler

Title: Systems programmer

Email: ram@mackinacsoftware.com

Phone: (517) 268-1288

All three individuals are qualified to perform installation, configuration, or other tasks required for the operation of the system.

- Contract Administrator: Marilyn Wulfekuhler or William McUmbler
- Technical Contact: William McUmbler or Marilyn Wulfekuhler
- Build and configure Weather Nexus products: Robert McUmbler, Marilyn Wulfekuhler, William McUmbler
- Install Weather Nexus at airports: William McUmbler, Marilyn Wulfekuhler, Robert McUmbler
- Monitor on-going data collection and dissemination: William McUmbler, Marilyn Wulfekuhler, Robert McUmbler
- Update central server collection cycle database: William McUmbler, Marilyn Wulfekuhler, Robert McUmbler
- Design and review software modifications: William McUmbler, Marilyn Wulfekuhler, Robert McUmbler
- Web system programming: William McUmbler, Robert McUmbler
- Web system design: Robert McUmbler, William McUmbler, Marilyn Wulfekuhler



1.202 State Staff, Roles, and Responsibilities

AWOS Maintenance:

Should a problem or failure of a State owned AWOS occur, MDOT will perform all necessary repairs. Should it be determined the cause of the failure is the fault of the Contractor, MDOT will invoice the Contractor for all expenses to restore the AWOS to service. (See Section 1.104 Task D above for further details regarding contractor responsibilities concerning an AWOS failure.)

Assistance To The Contractor By State Personnel:

Should the Contractor require on-site assistance with the maintenance and/or troubleshooting of Products, and no persons or businesses within the local community elects to assist, which is their discretion per Paragraph 1.203 below, the Contractor may contact the Contract Administrator for assistance by MDOT personnel. The Contract Administrator, at his discretion, may agree to provide MDOT assistance to the Contractor as necessary. This assistance may include, but is not limited to, on-site troubleshooting and maintenance, removal of defective Products, installation of replacement Products, and/or packing for shipment of Products to be returned to the contractor. Should it be necessary for MDOT personnel to make a special trip to provide any on-site assistance, the Contractor and the Contract Administrator will come to agreement regarding reimbursement to the State for MDOT expenses.

Timely Notification of New Sites

MDOT will notify the Contractor in a timely manner of any new site that will be added to the contract for the services included in this RFP. Timely notification by MDOT will allow the Contractor to notify WMSCR in a timely manner regarding the addition of this site. MDOT will coordinate the addition of this new site, so that upon the initial commissioning of this site, it can be included in WMSCR within two (2) days of the site commissioning.

1.203 Other Roles and Responsibilities

Roles and Responsibilities Of Any Persons Within The Local Community Where The Products Are Located:

No persons or business located at the airport or within the local community is under any obligation to provide assistance to the Contractor or the State whenever it is necessary for on-site maintenance or troubleshooting to be conducted. It is up to the discretion of the local persons or businesses, to provide any assistance when asked by either the Contractor or the State. This includes, but is not limited to, assistance in troubleshooting or maintenance of the Products, removal of defective Products, installation of new or replacement Products, and/or the packaging of Products to be returned to the Contractor. The local person or business who agrees to package any item for return, will not pay to have the item shipped. As specified in Section 1.104 above, the contractor is responsible to issue a pickup notice for shipment of that item. Contractors should verify their understanding of the requirement.

Contractor Response:

Mackinac Software understands that airport personnel have no obligation to provide assistance to the Contractor for installation, maintenance, or troubleshooting. As stated above, it is expected that troubleshooting will consist of a simple power cycle reboot, moving a phone line connection, or replacing the entire unit, making tasks to be performed on-site at the airports as simple and easy as possible. Mackinac Software will be responsible for shipping and pick-up of any returned and replacement products.

1.3 Project Plan

1.301 Project Plan Management

As part of the Contractor's response to this RFP, a detailed work plan must be included regarding how and when the Contractor will provide and install all Products (if necessary), for each option contained in this SOW. This work plan will include a project breakdown showing any subprojects, activities, and tasks, and all resources required and allocated to each. It will include all details concerning:

- 1) Installation Phase - of all Products (if necessary), hook up of all Products, testing of all systems and subsystems, documentation, training (if necessary), proof of operation, and system cutover, and
- 2) Collection Phase - Begin collection of the required data sequences from all MDOT owned AWOS locations.



MDOT is requesting the Contractor to begin collection of data sequences at each location right after completion of the installation phase at that location. The Contractor will begin collection of data from all MDOT owned locations within 60 days of contract award, for those locations where the installation of Products is necessary. Should MDOT select an option that does not require the installation of Products (such as by automatic telephone dial-up), then the Contractor must begin collecting data at all locations within 14 days of contract award.

If the Contractor cannot meet one (1) or more of these deadlines as stipulated, they must indicate in their response below why they cannot meet them. As part of the schedule the Contractor provides in their response to this ITB, they will describe in detail the deadlines that they can meet.

The project management plan should also identify all methods, tools, and processes proposed to oversee this project, how issues and changes will be addressed should they arise, and how they will keep the Contract Administrator apprised of progress during the project.

Contractor Response:

The availability of phone lines (e.g., WSI lines) at each of the 37 airports that can at least be borrowed for a short period will save MDOT significant money. If the initial phone survey and ordering of lines can be avoided, Weather Nexus airport computers can be installed and begin sending data as soon as they are built. This allows costs associated with the current vendor to end as quickly as possible. If lines are available for sharing in the long term, even more money can be saved as detailed in section 1.701. However, Mackinac Software understands that sharing may not be possible. Consequently, two schedules are presented in this section. Schedule A is based on the assumption that telephones lines are already available for temporary, or permanent (shared) use. Schedule A shows all 37 locations in operation and sending data in 29 days or less, even if some lines must subsequently be ordered. The switchover to an ordered line can be performed transparently at any later time with no interruption to data gathering.

Schedule B assumes telephone lines must be ordered. It appears 22 airports are in areas served by AT&T, 12 in areas served by Verizon and the balance in areas served by companies like Century Tel and TDS. All of the involved Telcos indicate 10 to 12 working days from order to installed line, however, we believe this number could vary significantly. In addition, with new phone lines there are extra tasks (such as in-building wiring) that have to be performed, therefore the install time at each airport must be increased from Schedule A. Requiring an estimated 44 days, Schedule B still is less than the requested time in section 1.301, however an early task in Schedule B is re-evaluation of the schedule based on firm phone line installation dates. The re-evaluation could move the schedule either way. Both Schedules A and B assume sending data to WMSCR as soon as computers are installed, as requested in section 1.301.

There is a clear cost and time advantage to MDOT in adopting Schedule A. MDOT can save more money in adopting Schedule A by avoiding extending the current contract, which is more expensive. Furthermore, Schedule A is more predictable. Schedule A requires a simple physical installation so fewer problems are expected. Consequently, we have confidence Schedule A can be met as presented below. Schedule B is our best estimate with the data we have available, however, Schedule B also contains timing elements not directly under our control.

Schedule A

Schedule A in Figure 1 shows that as soon as computers and communication boards arrive, building of the Weather Nexus airport computers can begin. To the extent the boards or computers arrive earlier, the schedule can be moved back. The schedule is based on information from our vendors in which we have good confidence.



The installation schedule proceeds in 8 groups of airports. Each group, detailed in Figure 4, is scheduled to take one day. At the conclusion of each day, all of the locations in a given group will be reporting METARs. The schedule indicates that the first group will come online at +16 days, with each group following every other day. As a note, travel times are based on flying time, not drive time.

Schedule B

Schedule B in Figures 2 and 3 begins the same as Schedule A with ordering computers and communication boards. Schedule B includes a more extensive airport location phone survey, and lines must be ordered. Since more work is required for newly installed phone lines, extra time is allocated at each airport for the required tasks. This ripples through the schedule by requiring more install groups, lengthening the schedule as compared to Schedule A. Nonetheless, we believe we can keep Schedule B under 60 days under all contingencies.

Staffing

All of the personnel mentioned in section 1B.202 are qualified for installation, however, William McUmbert will perform most of the on site installations. For each install some staff is required at the central server to ensure the installation is performed to specification.

Reporting

The most expedient means of reporting installation progress to MDOT is email to a designated MDOT contact. The major milestones we will contact MDOT on are:

1. Arrival of communication boards
2. Arrival of computers
3. Installation of phone lines (if applicable)
4. Completion of each install group.

Tools

We believe careful coordination and good communication is far more important in this project than any specific tool, hence that will be our first priority. We also believe that simple tools are often the best, so Microsoft Excel and Microsoft Word, in combination with email, should suffice for maintaining the schedule, notes, and documentation for the project. Further, since Word and Excel are ubiquitous and the files are easily interchanged, we will be able to share in-progress schedules and documents with MDOT, as required.

1.302 Reports

The Contractor will submit a status report that contains those items listed below, in the frequency indicated for each report. Included will be any information of problems or concerns, that MDOT should be made aware of. These reports will be submitted to the Contract Administrator. It can be sent via electronic mail to schultz@michigan.gov, or via fax at (517) 321-6422.



Installation and Implementation of Products:

Based on the option selected by MDOT, should it be necessary for the vendor to provide and install Products to perform the services requested in this RFP, the vendor will provide a progress report of the installation and implementation of these Products. Information in this report will include 1) A brief description of work accomplished since the last bi-weekly progress report, 2) A projection of work to be accomplished in the next bi-weekly period, 3) Problems encountered (if any) in the installation and implementation of Products at any sites during that bi-weekly period, and 4) Any other information the Contractor feels MDOT should be aware of. The first report will be due to the Contract Administrator on the second Monday after the contract is awarded, and every other Monday thereafter, until installation and implementation of all Products at all sites has been completed. At that time, the Contractor will provide a summary report of the installation and implementation of all sites. Once all sites are completed, and the summary report is filed, the Contractor is no longer required to provide this information, until such time as any new sites are added which require the installation and implementation of products.

Data Collection and Throughput – Monthly Report:

By the 15th of each month, the Contractor will provide to the Contract Administrator, a report which lists the number of successful data sequences collected for the previous month from each MDOT owned site, and the number of sequences that successfully got through WMSCR.

Contractor Response to Task:

The Weather Nexus server can email this report as required above. An option to replace this report is to make a web screen available that displays the data listed above. This screen would be available at any time and updated continuously as the system runs rather than just on the 15th. If MDOT agrees, the web based system is preferred by Mackinac Software.

Data Collection and Throughput – Annual Report:

By January 15 of each year of this contract, the vendor will provide to the Contract Administrator, an annual report of total successful data sequences collected from each MDOT owned site, and the number of sequences that successfully got through WMSCR. The period of this report will be from January 1 through December 31 of the previous calendar year.

Contractor Response to Task:

Mackinac Software will provide the report as requested, however, the web screen above also applies to this item, and is preferred.

1.4 Project Management

1.401 Issue Management

Issue/Risk #1 – Currently all non-federal AWOS data sequences go to WMSCR through the National Aerospace Data Interchange Network (NADIN). While there is no information to suggest this would happen, the issue/risk is what would happen if the FAA stops NADIN so the MDOT data sequences cannot get to WMSCR? The Contractor will respond with a proposed process, including contact persons and their phone numbers and email addresses, that addresses how they would handle this situation. This process will include how MDOT costs may be impacted.

Issue/Risk #2 – Since all existing AWOS systems listed in Exhibit 1, are owned and operated by the State of Michigan, as will any future systems installed that may or may not be added to this contract, therefore it is the contention of the State that all data generated and/or captured from those systems listed, belongs to the State. As a result, the issue/risk here, is that a Contractor will makes changes to each AWOS in such a manner that restricts the State access to the data from each system. The Contractor will include in there response a commitment to not do anything which will limit or prohibit MDOT from having access to the AWOS data from each existing and any future AWOS systems.

**Contractor Response to Task:**

NADIN has already been replaced with NADIN II and it has been widely reported that FTI will be an eventual follow-on to NADIN II. If NADIN II were to suddenly cease operation, as the above question implies, with no alternative path to WMSCR, the consequence would be the inability to report weather for ***all*** non-federal AWOSs *in the entire country*. The firestorm the FAA would find itself in would have to be answered by some alternate means to send data to WMSCR. Mackinac Software has extensive experience with all forms of networking and the technical capability to quickly build a connection to whatever alternative the FAA would provide. Failing this, the data could be sent to the National Weather Service gateway. Mackinac Software also has the capability to present current AWOS observations on the web itself. In fact, this is an option we detail in Article 1, Attachment A, Option G of this bid.

More likely, the FAA will provide some kind of access to WMSCR through an FTI IP network and announce that current connections must be moved to the IP gateway. As late as February 15, 2007, officials at the FAA indicated to us that the FTI gateways were likely two to three years away, and may be further out than that. Economic and technical planning for the gateway has barely begun. This also implies that the recently discussed NASAO "server per state" plan whereby each state will be able to send in its data through a gateway is similarly in the distant future.

In our discussions with FAA personnel, it is also understood that there will be a significant time overlap to permit current NADIN II X.25 users to switch to the new gateway. If and when this occurs, Mackinac Software has agreed with the FAA that it will switch to the new gateway. Our current Memorandum of Agreement for our NADIN II connection is valid at least until March 2010. We fully expect NADIN II to continue to function for the duration of this contract, and furthermore we intend to switch to IP when necessary, which will not likely impact this contract. Transition to a new network and protocol to WMSCR would be transparent to the state, and not effect how METARS are collected from airports to the Mackinac Software central server.

Issue/Risk #2:

We concur completely that Michigan AWOS data belongs to Michigan. Consequently, we agree to make 30 days worth of observations gathered available on a Mackinac Software server for no extra cost. If some sort of special access beyond a web screen is required (such as from an MDIT server) we would be glad to discuss this.

1.402 Risk Management - Reserved**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 the 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:

All Tasks, Services and Reporting requirements must be completed per the specifications in this SOW. The Contract Compliance Inspector will be review for compliance and approve all deliverables received from the Contractor.

1.502 Final Acceptance - Reserved

1.6 Compensation and Payment

1.601 Compensation and Payment

Any contract developed from this RFP will be firm, fixed unit price. There will be a fixed unit (monthly) price for each location for the service of collecting the data elements, sending the resulting sequences to WMSCR, and performing any required maintenance to the network. The only exception is the individual fixed unit price for these services for Sawyer Int'l Airport that will be done on a limited basis. If on-site Products are required to perform these services, and these Products must be installed at each location, a separate fixed unit price will be set for this installed Products element.

The Contractor will complete all pages included in Attachment A, at the end of this Article. If any specific option in Attachment A, does not apply, the Contractor will indicate such in the narrative section of that option.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 Additional Terms and Conditions Specific to this SOW - Reserved



Article 1, Attachment A
Pricing

A. Standard System for Providing Services as Defined with shared, existing phone line.

Cost for Installation of New Network System (each site)	\$	\$1,500	Per Site
Number of Current Sites		x 37	Sites
Cost for Dedicated Phone Line	\$	\$100	Per Site
 Total Cost for Installation of New Network Systems and Phone lines at Current Sites	\$	\$59,200	All Current Sites
 Cost for Monthly Services of New Network System (includes phone line)	\$	\$150	Per Month Per Site
Number of Current Sites (with the exception of Sawyer Int'l Airport)		x 36	Sites
(A) Total Monthly Cost for Monthly Services (36 sites)	\$	\$5,400	Per Month 36 Sites
(B) Total Monthly Cost for Monthly Service at Sawyer Int'l Airport(includes phone line)	\$	\$110	Per Month @ Sawyer
Total Monthly Cost for Monthly Service (all sites) (A + B above)	\$	5,510	Per Month All Sites
Months Per Year		x 12	Months
Annual Cost for Monthly Services (all sites)	\$	66,120	Annual Cost
 Total 3 Year Estimated Value:		\$257,560.00	



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

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

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates.
- (e) “Audit Period” has the meaning given in **Section 2.111**.
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201 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-PURCHOPS") and Michigan Department of Transportation (MDOT) (collectively, including all other relevant State of Michigan departments and agencies, the "State"). DMB-PURCHOPS is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **DMB-PURCHOPS 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:

Jim Wilson
 Purchasing Operations
 Department of Management and Budget
 Mason Bldg, 2nd Floor
 PO Box 30026
 Lansing, MI 48909
 Email: Wilsonj4@michigan.gov
 Phone: 517-241-1916

2.015 Contract Compliance Inspector

Upon receipt at DMB-PURCHOPS of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with MDOT, 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:

Steve Schultz
 Department of Transportation
 Phone: 517-335-9627

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 (1) State agency and if the Deliverable/Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.030 Legal Effect and Term

2.031 Legal Effect

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

2.032 Contract Term

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

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less 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/0,1607,7-139-30639_30655---,00.html.

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**

- (a) **Equipment to be New**
If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.
- (b) **Prohibited Products**
The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.106**.

2.070 Performance**2.071 Performance, In General**

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

2.072 Time of Performance

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

**2.073 Liquidated Damages- Reserved****2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within 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**

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

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

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

2.082 Delivery of Deliverables

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

**2.083 Testing**

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

2.084 Approval of Deliverables, In General

- (a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.
- (b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.
- (c) Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.
- (d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.
- (e) If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to 10% 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 - Reserved****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 contract rates. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.
- (b) **Adjustments for Reductions in Scope of Services/Deliverables**
If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in the Contract.
- (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.



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 C**. 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 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)
The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.
- (c) Out-of-Pocket Expenses
Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.
- (d) Pro-ration
To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.
- (e) Antitrust Assignment
The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
- (f) Final Payment
The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation

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

**2.094 Holdback - Reserved****2.095 Electronic Payment Availability**

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 with **Article 1, Attachment E** (Project Plan) is likely to delay the timely achievement of any Contract tasks.
- (b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.102 Problem and Contract Management Procedures

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

2.103 Reports and Meetings - Reserved**2.104 System Changes**

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

2.105 Reserved**2.106 Change Requests**

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



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

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

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

- (a) Change Requests
 - (i) State Requests

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

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.
 - (iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.
 - (iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
 - (v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, 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

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

2.112 Errors

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

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

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

2.165 Standard Software

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

2.166 Pre-existing Materials for Custom Software Deliverables - 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 Contractor for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Contractor; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.
- (l) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.



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

2.172 Software Warranties - Reserved

2.173 Equipment Warranty - Reserved

2.174 Physical Media Warranty – Reserved

2.175 Standard Warranties

- (a) **Warranty of Merchantability**
Deliverables shall be merchantable. All Deliverables shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor on the container or label.
- (b) **Warranty of fitness for a particular purpose**
When Contractor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Contractor's skill or judgment to select or furnish suitable Deliverables, the Contractor warrants that the Deliverables are fit for such purpose.
- (c) **Warranty of title**
Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

2.176 Consequences For Breach

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

2.180 Insurance

2.181 Liability Insurance

- (a) **Liability Insurance**

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

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

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



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

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

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

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

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of 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 ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

(b) Subcontractors

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

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to 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 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. 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 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 Reserved

2.250 Dispute Resolution

2.251 In General

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

2.252 Informal Dispute Resolution

- (a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of 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 sixty (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: Jim Wilson
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor(s):

Any AWOS
1000 Long Blvd., Ste 9
Lansing, MI 48911

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 Contractor if the State determines that the Contractor 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 1

The locations of the 37 AWOS IIIP's from which data shall be collected and disseminated are as follows:

Gratiot Community Airport, Alma, MI (AMN) – Model V-B
Huron County Memorial Airport, Bad Axe, MI (BAX) – Model V-B
Beaver Island Airport, Beaver Island, MI (SJX) – Model V-C
Antrim County Airport, Bellaire, MI (ACB) – Model V-B
Roben - Hood Airport, Big Rapids, MI (RQB) – Model V-B
Wexford County Airport, Cadillac, MI (CAD) – Model V-C
Tuscola Area Airport, Caro, MI (CFS) – Model V-C
Charlevoix Municipal Airport, Charlevoix, MI (CVX) – Model V-C
Fitch H. Beach Municipal Airport, Charlotte, MI (FPK) – Model V-C
Cheboygan County Airport, Cheboygan, MI (SLH) – Model V-C
Branch County Memorial Airport, Coldwater, MI (OEB) – Model V-B
Drummond Island Airport, Drummond Island, MI (DRM) – Model V-C
Dow Memorial Airport, Frankfort, MI (FKS) – Model V-C
Grayling Army Airfield, Grayling, MI (GOV) – Model V-C
Grosse Ile Municipal Airport, Grosse Ile, MI (ONZ) – Model V-B (split)
Sawyer International Airport, Gwinn, MI (SAW) – Model V-C IIIPT
Harbor Springs Municipal Airport, Harbor Springs, MI (MGN) – Model V-C
Hillsdale Municipal Airport, Hillsdale, MI (JYM) – Model V-B
Livingston County Airport, Howell, MI (OZW) – Model V-C
Toledo Suburban Airport, Lambertville, MI (DUH) – Model V-C
Mason County Airport, Ludington, MI (LDM) – Model V-C
Mackinac Island Airport, Mackinac Island, MI (MCD) – Model V-B
Schoolcraft County Airport, Manistique, MI (ISQ) – Model V-B
Brooks Field, Marshall, MI (RMY) – Model V-B
Mason Jewett Field, Mason, MI (TEW) – Model V-B
Monroe Custer Airport, Monroe, MI (TTF) – Model V-B
Mt. Pleasant Municipal Airport, Mt. Pleasant, MI (MOP) – Model V-C
Luce County Airport, Newberry, MI (ERY) – Model V-B
Oscoda - Wurtsmith Airport, Oscoda, MI (OSC) – Model V-B (split)
Owosso Community Airport, Owosso, MI (RNP) – Model V-C
St. Clair County International Airport, Port Huron, MI (PHN) – Model V-C
Presque Isle County / Rogers City Airport, Rogers City, MI (PZQ) – Model V-C
Saginaw County - H. W. Browne Airport, Saginaw, MI (HYX) – Model V-C
South Haven Area Regional Airport, South Haven, MI (LWA) – Model V-C
Kirsch Municipal Airport, Sturgis, MI (IRS) – Model V-B
Three Rivers Municipal, Dr. Haines Airport, Three Rivers, MI (HAI) – Model V-C
Oakland / Troy Airport, Troy, MI (VLL) – Model V-C