



**STATE OF MICHIGAN**  
**ENTERPRISE PROCUREMENT**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **8**

to

Contract Number **071B8200244**

|                   |                                   |
|-------------------|-----------------------------------|
| <b>CONTRACTOR</b> | York Risk Services Group          |
|                   | 645 W. Grand River Ave. Suite 100 |
|                   | Howell, MI 48843                  |
|                   | Scott Gaffner                     |
|                   | (517) 540-3177                    |
|                   | scott.gaffner@yorkrsg.com         |
|                   | 6066                              |

|              |                               |                           |      |
|--------------|-------------------------------|---------------------------|------|
| <b>STATE</b> | <b>Program Manager</b>        | Cheryl Scmittdiel         | DTMB |
|              |                               | (517) 373-6229            |      |
|              |                               | schmittdielc@michigan.gov |      |
|              | <b>Contract Administrator</b> | Mary Ostrowski            | DTMB |
|              |                               | (517) 373-6327            |      |
|              |                               | ostrowskim@michigan.gov   |      |

| CONTRACT SUMMARY  |                         |                                    |   |                   |
|---|-------------------------|------------------------------------|---|-------------------|
| LONG TERM DISABILITY ADMINISTRATION SERVICES  |                         |                                    |   |                   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS          | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |                   |
| October 1, 2008   | September 30, 2013      | 2 - 1 Year                         | March 29, 2017  |                   |
| PAYMENT TERMS   |                         | DELIVERY TIMEFRAME                 |   |                   |
| NET 45  |                         | N/A                                |   |                   |
| ALTERNATE PAYMENT OPTIONS   |                         |                                    | EXTENDED PURCHASING   |                   |
| <input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other   |                         |                                    | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                   |
| MINIMUM DELIVERY REQUIREMENTS   |                         |                                    |   |                   |
| N/A   |                         |                                    |   |                   |
| DESCRIPTION OF CHANGE NOTICE  |                         |                                    |   |                   |
| OPTION  | LENGTH OF OPTION        | EXTENSION                          | LENGTH OF EXTENSION   | REVISED EXP. DATE |
| <input type="checkbox"/>  |                         | <input type="checkbox"/>           |   |                   |
| CURRENT VALUE   | VALUE OF CHANGE NOTICE  | ESTIMATED AGGREGATE CONTRACT VALUE |   |                   |
| \$295,900,608.00  | \$499,000.00            | \$296,399,608.00                   |   |                   |
| DESCRIPTION   |                         |                                    |   |                   |
| Effective February 15, 2017, this Contract is increased by \$499,000.00. Please note the Contract Administrator has been changed to Mary Ostrowski (Section 2.021) and the Contract Compliance Inspector has been changed to Cheryl Schmittdiel (Section 2.022). All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval. |                         |                                    |   |                   |



# STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget  
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
P.O. BOX 30026 LANSING, MICHIGAN 48909

## CONTRACT CHANGE NOTICE

Change Notice Number 7  
to  
Contract Number 071B8200244

|                   |                          |
|-------------------|--------------------------|
| <b>CONTRACTOR</b> | York Risk Services Group |
|                   | 808 N. Highlander Way    |
|                   | Howell, MI 48843         |
|                   | Scott Gaffner            |
|                   | (517) 540-3177           |
|                   | sgaffner@hanover.com     |
|                   | *****6066                |

|              |                        |                           |      |
|--------------|------------------------|---------------------------|------|
| <b>STATE</b> | Program Manager        | Bethany Bethany Beauchine | DTMB |
|              |                        | 517-335-2579              |      |
|              |                        | beauchine@michigan.gov    |      |
|              | Contract Administrator | Dan Stevens               | DTMB |
|              |                        | (517) 284-7049            |      |
|              |                        | StevensD6@michigan.gov    |      |

| CONTRACT SUMMARY  |                         |                                     |   |                   |
|---|-------------------------|-------------------------------------|---|-------------------|
| DESCRIPTION: Long Term Disability Administration Services   |                         |                                     |   |                   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS           | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |                   |
| October 1, 2008   | September 30, 2013      | 2 - 1 Year                          | September 30, 2016  |                   |
| PAYMENT TERMS   |                         | DELIVERY TIMEFRAME                  |   |                   |
| N/A   |                         | N/A                                 |   |                   |
| ALTERNATE PAYMENT OPTIONS   |                         |                                     | EXTENDED PURCHASING   |                   |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other |                         |                                     | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                   |
| MINIMUM DELIVERY REQUIREMENTS   |                         |                                     |   |                   |
| N/A   |                         |                                     |   |                   |
| DESCRIPTION OF CHANGE NOTICE  |                         |                                     |   |                   |
| OPTION  | LENGTH OF OPTION        | EXTENSION                           | LENGTH OF EXTENSION   | REVISED EXP. DATE |
| <input type="checkbox"/>  |                         | <input checked="" type="checkbox"/> | 180 Days  | March 29, 2017    |
| CURRENT VALUE   |                         | VALUE OF CHANGE NOTICE              | ESTIMATED AGGREGATE CONTRACT VALUE                                  |                   |
| \$295,900,608.00  |                         | \$ 0.00                             | \$295,900,608.00  |                   |

**DESCRIPTION:** Effective July 29, 2017, this contract is hereby extended 180 days per Section 2.170. Please note the Contract Administrator has been changed to Dan Stevens per Section 2.024 Change Requests. The revised contract expiration date is March 29, 2017.

All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.

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

525 W. ALLEGAN STREET  
 LANSING, MI 48933

P.O. BOX 30026  
 LANSING, MI 48909

CHANGE NOTICE NO. 6  
 to  
 CONTRACT NO. 071B8200244  
 between  
 THE STATE OF MICHIGAN  
 and

| NAME & ADDRESS OF CONTRACTOR  | PRIMARY CONTACT | EMAIL  |
|---|-----------------|--|
| York Risk Services Group<br>645 W. Grand River, Suite 100<br>Howell, MI 48843 | Scott Gaffner   | scott.gaffner@yorkrsg.com                          |
|   | PHONE           | CONTRACTOR'S TAX ID NO.<br>(LAST FOUR DIGITS ONLY) |
|   | 517-540-3177    | *****6066  |

| STATE CONTACTS         | AGENCY | NAME              | PHONE        | EMAIL                   |
|------------------------|--------|-------------------|--------------|-------------------------|
| PROGRAM MANAGER / CCI  | DTMB   | Bethany Beauchine | 517-335-2579 | beauchineb@Michigan.gov |
| CONTRACT ADMINISTRATOR | DTMB   | Brandon Samuel    | 517-284-7025 | samuelb@michigan.gov    |

| CONTRACT SUMMARY  |                         |                           |   |
|---|-------------------------|---------------------------|---|
| DESCRIPTION: Long Term Disability Administration Services   |                         |                           |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013      | 2, one year               | September 30, 2016  |
| PAYMENT TERMS   |                         | DELIVERY TIMEFRAME        |   |
| N/A   |                         | N/A                       |   |
| ALTERNATE PAYMENT OPTIONS   |                         |                           | EXTENDED PURCHASING   |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other |                         |                           | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| MINIMUM DELIVERY REQUIREMENTS   |                         |                           |   |
| N/A   |                         |                           |   |

| DESCRIPTION OF CHANGE NOTICE  |                  |                          |                                    |                   |
|---|------------------|--------------------------|------------------------------------|-------------------|
| EXERCISE OPTION?  | LENGTH OF OPTION | EXERCISE EXTENSION?      | LENGTH OF EXTENSION                | REVISED EXP. DATE |
| <input type="checkbox"/>  |                  | <input type="checkbox"/> |                                    |                   |
| CURRENT VALUE   |                  | VALUE OF CHANGE NOTICE   | ESTIMATED AGGREGATE CONTRACT VALUE |                   |
| \$295,900,608.00  |                  | \$ 0.00                  | \$295,900,608.00                   |                   |
| <b>DESCRIPTION:</b><br>Effective January 25, 2016, the vendor name is hereby changed from Citizens Management Inc. to York Risk Services Group. Please note that the Contract Administrator has been changed to Brandon Samuel and the Program Manager / CCI has been changed to Bethany Beauchine. All other terms, conditions, specifications and pricing remain the same. Per DTMB contractor and agency agreement, and DTMB Procurement approval. |                  |                          |                                    |                   |

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

**CHANGE NOTICE NO. 5**  
 to  
**CONTRACT NO. 071B8200244**  
 between  
**THE STATE OF MICHIGAN**  
 and

| NAME & ADDRESS OF CONTRACTOR  | PRIMARY CONTACT | EMAIL                                      |
|---|-----------------|--|
| CMI, A York Risk Services Company, Inc.<br><br>645 W. Grand River<br><br>Howell, MI 48843 | Scott Gaffner   | Scott.gaffner@cmi-yorkrsg.com              |
|   | PHONE           | VENDOR TAX ID #<br>(LAST FOUR DIGITS ONLY) |
|   | (517) 338-3349  | -6066                                      |

| STATE CONTACTS         | AGENCY | NAME            | PHONE          | EMAIL                   |
|------------------------|--------|-----------------|----------------|-------------------------|
| PROGRAM MANAGER / CCI  | DTMB   | Ken Swisher     | (517) 373-0438 | swisherkm@michigan.gov  |
| CONTRACT ADMINISTRATOR | DTMB   | Lance Kingsbury | (517) 241-3768 | kingsburyl@michigan.gov |

| CONTRACT SUMMARY  |                         |                           |   |
|---|-------------------------|---------------------------|---|
| <b>DESCRIPTION: Long Term Disability Administration Services – DTMB</b>                                     |                         |                           |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013      | 2, one year               | September 30, 2015  |
| PAYMENT TERMS   | F.O.B.                  | SHIPPED TO                |   |
| N/A   | N/A                     | N/A                       |   |
| ALTERNATE PAYMENT OPTIONS   |                         |                           | EXTENDED PURCHASING   |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other |                         |                           | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| MINIMUM DELIVERY REQUIREMENTS   |                         |                           |   |
| N/A   |                         |                           |   |

| DESCRIPTION OF CHANGE NOTICE  |                                  |  |  |                              |
|---|----------------------------------|--|--|------------------------------|
| EXTEND CONTRACT EXPIRATION DATE                                     | EXERCISE CONTRACT OPTION YEAR(S) | EXTENSION BEYOND CONTRACT OPTION YEARS | LENGTH OF EXTENSION/OPTION                 | EXPIRATION DATE AFTER CHANGE |
| <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes | <input type="checkbox"/>         | <input checked="" type="checkbox"/>    | 1 year                                     | September 30, 2016           |
| CURRENT VALUE   |                                  | VALUE/COST OF CHANGE NOTICE            | ESTIMATED REVISED AGGREGATE CONTRACT VALUE |                              |
| \$295,900,608.00  |                                  | \$0.00                                 | \$295,900,608.00                           |                              |

**DESCRIPTION:**

Effective October 1, 2015, this contract is hereby extended to September 30, 2016. All other terms, conditions, pricing and specifications remain the same. Per contractor and agency agreement and the approval of DTMB Procurement.

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

July 26, 2013

**CHANGE NOTICE NO. 4**  
to  
**CONTRACT NO. 071B8200244**  
between  
**THE STATE OF MICHIGAN**  
and

| NAME & ADDRESS OF CONTRACTOR:   | PRIMARY CONTACT | EMAIL  |
|---|-----------------|--|
| CMI, A York Risk Services Company, Inc.<br>645 W. Grand River<br>Howell, MI 48843 | Scott Gaffner   | <a href="mailto:scott.gaffner@cmi-yorkrsg.com">scott.gaffner@cmi-yorkrsg.com</a> |
|   | TELEPHONE       | CONTRACTOR #, MAIL CODE  |
|   | (517) 338-3349  |  |

| STATE CONTACTS                | AGENCY | NAME            | PHONE          | EMAIL  |
|-------------------------------|--------|-----------------|----------------|--|
| CONTRACT COMPLIANCE INSPECTOR | DTMB   | Ken Swisher     | (517) 373-0438 | <a href="mailto:swisherk@michigan.gov">swisherk@michigan.gov</a>     |
| BUYER                         | DTMB   | Lance Kingsbury | (517) 241-3768 | <a href="mailto:kingsburyl@michigan.gov">kingsburyl@michigan.gov</a> |

| CONTRACT SUMMARY:   |  |                                |   |
|---|--|--------------------------------|---|
| DESCRIPTION: <b>Long Term Disability Administration Services – DTMB</b> |  |                                |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE                      | INITIAL AVAILABLE OPTIONS      | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013                           | 2, 1 Year Options              | September 30, 2013  |
| 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 checked="" type="checkbox"/> | <input type="checkbox"/>                    | 2 years                    | September 30, 2015           |
| VALUE/COST OF CHANGE NOTICE:  |                                     | ESTIMATED AGGREGATE CONTRACT VALUE REMAINS: |                            |                              |
| \$73,620,000.00   |                                     | \$295,900,608.00                            |                            |                              |
| Effective July 23, 2013, this contract exercises two contract option years, with a new contract end date of September 30, 2015. Contract is also increased by \$73,620,000.00. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on July 23, 2013. |                                     |   |                            |                              |

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. 071B8200244**  
between  
**THE STATE OF MICHIGAN**  
and

| NAME & ADDRESS OF CONTRACTOR:   | PRIMARY CONTACT | EMAIL  |
|---|-----------------|--|
| CMI, A York Risk Services Company, Inc.<br>645 W. Grand River<br>Howell, MI 48843 | Scott Gaffner   | <a href="mailto:scott.gaffner@cmi-yorkrsg.com">scott.gaffner@cmi-yorkrsg.com</a> |
|   | TELEPHONE       | CONTRACTOR #, MAIL CODE  |
|   | (517) 338-3349  |  |

| STATE CONTACTS                | AGENCY | NAME            | PHONE          | EMAIL  |
|-------------------------------|--------|-----------------|----------------|--|
| CONTRACT COMPLIANCE INSPECTOR | DTMB   | Ken Swisher     | (517) 373-0438 | <a href="mailto:swisherk@michigan.gov">swisherk@michigan.gov</a>     |
| BUYER                         | DTMB   | Lance Kingsbury | (517) 241-3768 | <a href="mailto:kingsburyl@michigan.gov">kingsburyl@michigan.gov</a> |

| CONTRACT SUMMARY:   |  |                                |   |
|---|--|--------------------------------|---|
| DESCRIPTION: <b>Long Term Disability Administration Services – DTMB</b> |  |                                |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE                      | INITIAL AVAILABLE OPTIONS      | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013                           | 2, 1 Year Options              | September 30, 2013  |
| 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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/>         | <input type="checkbox"/>               |   |                              |
| VALUE/COST OF CHANGE NOTICE:  |                                  |  | ESTIMATED AGGREGATE CONTRACT VALUE REMAINS: |                              |
| \$0.00  |                                  |  | \$222,280,608.00                            |                              |

Effective June 27, 2013, the following language is hereby incorporated into the contract:

Individual At Risk Services will be billed as follows for FY2013.

At-Risk Ergo Assessment: \$400.00 per claim  
Follow-Up Review: \$150.00 per claim  
Worksmart Assessment: \$500 for up to 10 work stations  
Worksmart in Excess of 10 Stations: \$50.00 per additional work station.  
All other terms, conditions, specifications, and pricing remain the same.

Per DTMB Procurement approval.

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. 2**  
to  
**CONTRACT NO. 071B8200244**  
between  
**THE STATE OF MICHIGAN**  
and

| NAME & ADDRESS OF CONTRACTOR:   | PRIMARY CONTACT | EMAIL  |
|---|-----------------|--|
| CMI, A York Risk Services Company, Inc.<br>645 W. Grand River<br>Howell, MI 48843 | Scott Gaffner   | <a href="mailto:scott.gaffner@cmi-yorkrsg.com">scott.gaffner@cmi-yorkrsg.com</a> |
|   | TELEPHONE       | CONTRACTOR #, MAIL CODE  |
|   | (517) 338-3349  |  |

| STATE CONTACTS                | AGENCY | NAME            | PHONE          | EMAIL  |
|-------------------------------|--------|-----------------|----------------|--|
| CONTRACT COMPLIANCE INSPECTOR | DTMB   | Ken Swisher     | (517) 373-0438 | <a href="mailto:swisherk@michigan.gov">swisherk@michigan.gov</a>     |
| BUYER                         | DTMB   | Lance Kingsbury | (517) 241-3768 | <a href="mailto:kingsburyl@michigan.gov">kingsburyl@michigan.gov</a> |

| CONTRACT SUMMARY:   |                         |                           |   |
|---|-------------------------|---------------------------|---|
| DESCRIPTION: <b>Long Term Disability Administration Services – DTMB</b>                                     |                         |                           |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013      | 2, 1 Year Options         | September 30, 2013  |
| 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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes  | <input type="checkbox"/>         | <input type="checkbox"/>               |   |                              |  |  |
| VALUE/COST OF CHANGE NOTICE:   |                                  |  | ESTIMATED AGGREGATE CONTRACT VALUE REMAINS: |                              |  |  |
| \$104,000.00   |                                  |  | \$222,280,608.00                            |                              |  |  |
| Effective June 18, 2013, this contract is hereby increased by \$104,000.00 and the following language is hereby incorporated into the contract   |                                  |  |   |                              |  |  |
| 1. Any reference to Riskmaster® X should be removed, along with any costs associated with Riskmaster® X. (1.022 Work and Deliverables – 3 Claim Processing (G) and Attachment A, Price Proposal – Section Self Insured Long Term Disability Rating Proposal (ASO)) |                                  |  |   |                              |  |  |

2. Article 1 - *Section 1.022 Work and Deliverables* - 4. *Disability Management* - b. *At Risk Claims* should be deleted and replaced with the following language:

The State of Michigan promotes the identification of “at-risk” work related situations and circumstances that may lead employees to eventually be placed on one of the State’s disability programs. To the extent early identification and intervention can prevent an employee from going off work on a benefit program, the State promotes interventions for the “at-risk” employees.

Participation by employees in the At Risk Program is voluntary. An individual employee assessment requires medical documentation from a licensed or board certified physician to support the need for the At Risk assessment, a departmental referral, and approval from the Office of the State Employer (OSE). Approved referrals will be forwarded to the contractor, who will: perform or coordinate the assessment; provide the employee with access to, or information about, any appropriate equipment options; provide written recommendations to the department for consideration and implementation, with copies to the employee and OSE; forward monthly billing statements to the OSE; and perform a 90 day post assessment/quality assurance survey with the employee. The recommendation must be concurred with by the department representative. When approved by the OSE, the contractor will perform a follow-up assessment.

As part of the At Risk Program, the OSE may authorize the contractor to perform a Work Smart assessment for a group of employees, with a minimum of 10 employees participating at a single work location. The Work Smart assessment does not require medical documentation and is limited to the adjustment of the employee’s office task chair and computer work station.

The contractor will conduct the At Risk Program in accordance with procedures developed by the OSE. All providers utilized by the contractor must be acceptable to the State of Michigan. This service will be provided by the contractor at the agreed upon all-inclusive tiered fee for the initial At Risk assessment, follow-up At Risk assessment and Work Smart assessment.

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

Per DTMB Procurement approval.



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. 1**  
to  
**CONTRACT NO. 071B8200244**  
between  
**THE STATE OF MICHIGAN**  
and

| NAME & ADDRESS OF CONTRACTOR:   | PRIMARY CONTACT | EMAIL  |
|---|-----------------|--|
| CMI, A York Risk Services Company, Inc.<br>645 W. Grand River<br>Howell, MI 48843 | Scott Gaffner   | <a href="mailto:scott.gaffner@cmi-yorkrsg.com">scott.gaffner@cmi-yorkrsg.com</a> |
|   | TELEPHONE       | CONTRACTOR #, MAIL CODE  |
|   | (517) 338-3349  |  |

| STATE CONTACTS                | AGENCY | NAME            | PHONE          | EMAIL  |
|-------------------------------|--------|-----------------|----------------|--|
| CONTRACT COMPLIANCE INSPECTOR | DTMB   | Ken Swisher     | (517) 373-0438 | <a href="mailto:swisherk@michigan.gov">swisherk@michigan.gov</a>     |
| BUYER                         | DTMB   | Lance Kingsbury | (517) 241-3768 | <a href="mailto:kingsburyl@michigan.gov">kingsburyl@michigan.gov</a> |

| CONTRACT SUMMARY:   |                         |                           |   |
|---|-------------------------|---------------------------|---|
| DESCRIPTION: Long Term Disability Administration Services – Department of Management and Budget/OSE         |                         |                           |   |
| INITIAL EFFECTIVE DATE  | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW                        |
| October 1, 2008   | September 30, 2013      | 2, 1 Year Options         | September 30, 2013  |
| 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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/>         | <input type="checkbox"/>               |   |                              |
| VALUE/COST OF CHANGE NOTICE:  |                                  |  | ESTIMATED AGGREGATE CONTRACT VALUE REMAINS: |                              |
| \$0.00  |                                  |  | \$222,176,608.00                            |                              |

Effective immediately, the Contractor's name and address has been changed. The buyer has been changed to Lance Kingsbury.

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

Per DTMB Procurement approval.

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

September 26, 2008

NOTICE  
TO  
CONTRACT NO. 071B8200244  
between  
THE STATE OF MICHIGAN  
and

|   |            |                             |
|---|------------|-----------------------------|
| NAME & ADDRESS OF CONTRACTOR  |            | TELEPHONE (517) 540-3177    |
| <b>Citizens Management Inc.</b>   |            | <b>Scott Gaffner</b>        |
| <b>808 N. Highlander Way</b>  |            |                             |
| <b>Howell, MI 48843</b>   |            | BUYER/CA (517) 373-1080     |
| <b>sgaffner@hanover.com</b>   |            | <b>Melissa Castro, CPPB</b> |
| Contract Compliance Inspector: Ken Swisher (517) 373-0438                                     |            |                             |
| <b>Long Term Disability Administration Services – Department of Management and Budget/OSE</b> |            |                             |
| CONTRACT PERIOD: From: <b>October 1, 2008</b> To: <b>September 30, 2013</b>                   |            |                             |
| TERMS   | <b>N/A</b> | SHIPMENT                    |
|   |            | <b>N/A</b>                  |
| F.O.B.  | <b>N/A</b> | SHIPPED FROM                |
|   |            | <b>N/A</b>                  |
| MINIMUM DELIVERY REQUIREMENTS   |            |                             |
| <b>N/A</b>  |            |                             |

Estimated Contract Value: \$222,176,608.00

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. 071B8200244**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

|  |                            |  |
|--|----------------------------|--|
| NAME & ADDRESS OF CONTRACTOR<br><br><b>Citizens Management Inc.</b><br><b>808 N. Highlander Way</b><br><b>Howell, MI 48843</b>                             |                            | TELEPHONE (517) 540-3177<br><b>Scott Gaffner</b>       |
|  |                            |  |
|  |                            | BUYER/CA (517) 373-1080<br><b>Melissa Castro, CPPB</b> |
| Contract Compliance Inspector: Ken Swisher (517) 373-0438<br><b>Long Term Disability Administration Services – Department of Management and Budget/OSE</b> |                            |  |
| CONTRACT PERIOD: From: <b>October 1, 2008</b> To: <b>September 30, 2013</b>  |                            |  |
| TERMS<br><b>N/A</b>  | SHIPMENT<br><b>N/A</b>     |  |
| F.O.B.<br><b>N/A</b>   | SHIPPED FROM<br><b>N/A</b> |  |
| MINIMUM DELIVERY REQUIREMENTS<br><b>N/A</b>  |                            |  |
| MISCELLANEOUS INFORMATION:<br><br><br><br><br><br><br><br><br><br><b>Estimated Contract Value: \$222,176,608.00</b>  |                            |  |

**FOR THE CONTRACTOR:**

**Citizens Management Inc.**

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date \_\_\_\_\_

**FOR THE STATE:**

Signature

**Elise A. Lancaster, Director**

Name/Title

## Purchasing Operations

Division

Date \_\_\_\_\_



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

Contract No. 071B8200244  
Long-Term Disability Third Party Administrator Claim Services

Buyer Name: Melissa Castro, CPPB  
Telephone Number: 517-373-1080  
E-Mail Address: [castrom@michigan.gov](mailto:castrom@michigan.gov)



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## **ATTACHMENTS**

Attachment A, Price Proposal





### DEFINITIONS

“Days” means calendar days unless otherwise specified.

“24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

“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.

“Audit Period” has the meaning given in **Section 2.093**.

“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.

“Blanket Purchase Order” is an alternate term for Contract and is used in the States computer system.

“Business Critical” means any function identified in any Statement of Work as Business Critical.

“Chronic Failure” is defined in any applicable Service Level Agreements.

“Deleted – Not Applicable” means that section is not applicable or included in this Contract. This is used as a placeholder to maintain consistent numbering.

“Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work

“DMB” means the Michigan Department of Management and Budget

“Environmentally preferable products” means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

“Excusable Failure” has the meaning given in **Section 2.214**.

“Hazardous material” means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

“Incident” means any interruption in Services.

“ITB” is a generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders

“Key Personnel” means any Personnel designated in **Section 1.031** as Key Personnel.

“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.

“Ozone-depleting substance” means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

“Post-Consumer Waste” means any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

“Post-Industrial Waste” means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.



“Recycling” means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

“Reuse” means using a product or component of municipal solid waste in its original form more than once.

“RFP” means a Request for Proposal designed to solicit proposals for services.

“Services” means any function performed for the benefit of the State.

“Source reduction” means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

“State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

“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.

“Unauthorized Removal” means the Contractor’s removal of Key Personnel without the prior written consent of the State.

“Waste prevention” means source reduction and reuse, but not recycling.

“Waste reduction”, or “pollution prevention” means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

“Work in Progress” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

“Work Product” refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.

**Article 1 – Statement of Work (SOW)****1.010 Project Identification****1.011 Project Request**

This Contract is for a Third Party Administrator (TPA) to manage the Long-Term Disability (LTD) income benefit protection Plan available to State of Michigan employees.

**1.012 Background**

The State of Michigan provides for disability wage loss payments for long-term disability (work and non-work related) injuries and illnesses incurred by state employees. The program will be completely self-insured. There is a possibility of adding aggregate stop loss coverage for claims exceeding 125% of expected loss levels. If this approach is adopted, the expected loss levels will be established at the beginning of each fiscal year.

**1.020 Scope of Work and Deliverables****1.021 In Scope**

The specific services provided by the Contractor, may, as requested by the State, include, claims administration, claim processing, claims investigation, claim reporting and record keeping, overpayment recovery, subrogation, return-to-work support, appeals processing, auditing, reserving and billing, for LTD related claims functions involving State of Michigan employees. Initial marketing, promotion and statewide seminars are included as part of this Contract. Compliance with specific directive of the State's Contract Compliance Inspector (CCI) is included in the tasks prescribed under this Contract. Appropriate reserving practices are required.

**1.022 Work and Deliverable**

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

**1. Claims Intake**

It is the State's intention to develop and manage a common claims intake system for both Workers' Compensation and LTD claims. This system will interface with Lawson, the State's HR system. The Contractor will interface with this system to download claims submissions. Electronic interface with the Workers' Compensation TPA will also be required. LTD related claims shall be transmitted from the Workers' Compensation TPA within four business hours from the date of receipt, or directly to the LTD TPA via manual or electronic claims reporting.

**2. Claims Administration**

a. Account Manager: The Contractor shall assign an Account Manager who will have the primary responsibility for interacting with the State's CCI and also be responsible for resolving any issues relative to the ongoing operation of this Contract. The Account Manager shall be at a level within the organization to be able to make decisions on behalf of the Contractor and effect changes that will be upheld by the Contractor without incurring delays. All contract, policy and procedure issues involving this Contract shall be the responsibility of the State's CCI and the Contractor's Account Manager to resolve.

b. Audits: The State of Michigan will require the Contractor to undergo financial and performance audits from outside companies to assure both the financial viability of the disability management programs and the operational viability. These audits will require the Contractor to provide any assistance, claim file access, staff access, and space access to the party selected to perform the indicated audit. These audits may be performed annually. In addition, the Auditor General for the State of Michigan may choose to perform an audit based on the Contractor's contractual relationship with the State of Michigan. In such cases, the Contractor is required to provide the same support and cooperation as if the audit was being performed by a company selected by the State's CCI. In either situation, the State's CCI will be involved.

c. Telephone Recording System: The Contractor will have a system in place for the recording of telephone conversations for all claim adjusters, appeal staff and supervisors. A recorded message will advise all callers to the State of Michigan Claims Unit that their call may be recorded for quality assurance purposes. All telephone calls will be kept for the duration of this Contract. Transcriptions or CD copies will be made available upon request on a fee basis as outlined in Attachment A.



The Contractor will have designated Customer Service Representatives (CSRs) who are trained to reply to the most frequently asked questions. Inquiries beyond the routine will be directly referred from the CSR to the assigned Claim Adjuster. The Contractor's telephone system will include a "hunt" process that connects the caller to an available CSR. The Contractor's supervisory level management will have the capability to monitor the telephone communications of the dedicated teams. The CCI for the State will receive quarterly and annual LTD Call Center reports. These reports will provide the month, total number of calls received, average speed of answer (in seconds), percentage of calls answered within 60 seconds, total number of abandoned calls, abandonment rate, and total number and percentage of calls receiving a busy signal.

d. Billing: Billings to the State of Michigan will be agreed upon between the State and the Contractor. The billings for actual services rendered will be presented to the State within a two-week period from the end of the period for which services were provided. Charges for claims handling expenses will be separated from other service fees and will be so identified on all billing documents.

e. Fees: The fees established under this Contract will be on a per claim basis for handling the standard claims activity associated with disability related claims. This fee will be a "per claim" and/or on a "per employee" basis and will be all-inclusive for that claim activity. Additional service related fees, if not included in the standard per claim fee, must be specifically presented to the State's CCI and agreed to prior to acceptance. The amounts for these additional fees or rates are included Attachment A. Unless otherwise specified, all data and reporting fees shall be included in the per claim fee. The basis on which such fees are to be charged shall also be provided.

f. Staffing: The Contractor shall assure that there is adequate staffing to support all claims processing and support services required by the State of Michigan. The Contractor will assure that examiner caseloads for standard and litigated claims will be consistent with industry standards as described in various industry publications. LTD caseloads will not exceed 175 open cases. To the extent case loads are determined by the State to be in excess of that necessary to provide the services required by the State, the State and the Contractor will meet and reach a consensus as to appropriate case loads to assure appropriate services are provided. In the event consensus cannot be achieved, the recommendations of the State, with adequate industry data for support, will be instituted. Staffing should include account manager, claims supervisors, claims examiners, claims processors, medical review technicians, physicians, utilization review specialists, health professionals, psychiatric claim review specialists, case managers, litigation claim specialists, qualified investigators, qualified investigation supervisors, billing specialists, accountants, and data service specialists.

The Contractor's staffing model shall be comprised of the Disability Manager, Disability Supervisor, Claims Adjusters, two Registered Nurses (one of whom dually services as the Appeals Coordinator), Service Support Specialists and the Account Manager. In addition, the adjusting staff will also consist of four resolution unit adjusters who will carry a higher workload. The resolution unit will be responsible for aged cases where test change is met and return to work in any capacity is not imminent. The Contractor also has an overpayment specialist adjuster position whose sole responsibility will be to manage and coordinate the overpayment process with the State of Michigan CCI and the Treasury Department. This individual will be assigned a larger caseload as these claims do not require benefit issuance.

The Contractor will utilize subcontractors to perform all private investigation (surveillance) activity, Social Security Advocacy Services, medical recorded reviews, medical Peer-to-Peer reviews, and Independent Medical Examinations.

Medical management direction will be evaluated by the Contractor's Quarterly Claim Assurance audits of each claim professional. Approximately 25% of all work assigned to an adjuster will be formally reviewed. Key elements of each claim will be evaluated. These written reviews will serve as "baseline" data to complete the quarterly claim quality evaluations on each Claim Adjuster. The reviews will serve to provide recognition for quality work products or to identify and manage any individual training needs.

The Contractor will require all IME vendors to submit responses to a questionnaire to ensure all medical examinations are performed by high-quality, board-certified physicians. Performance measurements for IME vendors are included within the Contractor's formal quality assurance procedures. Reviews are completed by the claim supervisors and senior claim professionals.



The Contractor will utilize vendors that are experienced Social Security Advocates with an effective record of performance. The advocates are “award contingent”. The advocates will be required to provide summary reports on a quarterly basis. The selected advocates will be expected to surpass the national results for SSDI applicants filing with representation. Input will be routinely gathered from the disabled employee on the timeliness, professionalism, and guidance of the advocate.

g. Turnaround Times and Accuracy: The Contractor will be required to provide services as described in this Contract on an accurate and timely basis as described elsewhere in this document. Claim accuracy will be defined by industry standards. All claims shall be processed with at least 95% accuracy. Payment accuracy must meet or exceed 99%. The time frames specified in this Contract are minimum acceptable limits. For LTD claims, three-point contact shall be made within three business days from the time the claim is received by the Contractor. This three-point contact shall include contact with the employee, the employing agency, and the treating provider. Other timing definitions shall be contained in the specific task descriptions contained below. All applicable state regulations regarding the timely reporting and notification requirement shall be the responsibility of the Contractor on behalf of the State of Michigan.

A proper review of submitted claim documentation will be performed by the Claim Adjuster to determine benefit eligibility. The Contractor’s claim platform will provide a checkbox format to denote the claim status (accepted, pending, or denied). The Claim Adjuster will be responsible for keeping the information current. The Contractor will utilize a software edit process which sends the adjuster and supervisor a diary advising when a payment is issued on a denied or pending claim. Upon completion of the initial review, or upon receipt of medical documentation changing the status of the claim, the adjuster will edit the status to denote the change, attempt to contact the employee via telephone, with follow-up correspondence to the employee explaining the decision as well as the employee’s options. The adjuster will also advise the appropriate HR contact. The adjuster may also request an independent medical examination at this time, dependent upon the merits of the claim. Active diaries will be maintained on the denied claim, and if there is no inquiry or appeal request, the claim will be closed. Claims that involve suspended benefits will be diaried for follow-up actions with the employee and employer.

The frequency and level of the Contractor’s file reviews will be predicated upon the merits of each claim, and are both monitored by automated system edits and manual review. The Contractor’s claim platform houses an electronic diary system. The Claim Adjuster will be required to maintain an active diary on all open claims and the claim supervisor will have an automatically renewing diary on every file. The supervisor will complete an online case review at each diary and adjust the diary for future review on a specific timeline, depending on the action plan of the claim.

Claims that meet specific review criteria (disability type, or exceed the financial authority level of the adjuster) will be given additional review by the on-staff registered nurse and/or supervisor. Claims involving serious complexity, high potential for subrogation and recovery, or a high profile case will be round-tabled with the adjuster, on-site nurse, and claims management. Issues and obstacles will be discussed and a strategic plan of action will be agreed upon and documented. Subsequent round table reviews of that case will be held, dictated by the results of the action plan or changing circumstances.

### 3. Claims Processing

a. Claim File Documentation: Claim files shall be documented accurately with all relevant information associated with the particular claim. Sections shall be established in the claim file to adequately distinguish between required documentation, legal filings, legal notices, medical information, payments, examiner’s notes, etc. Documents within each section shall be maintained in chronological order unless otherwise agreed to between the State and the Contractor. The use of color-coding is acceptable with adequate documentation of file layout to support such coding. Information in the claim files shall be kept current to within 24 hours of receipt. Adequate and accurate documentation is required so as to support any decisions that are being made relative to the claim. Claim files shall be accurately reviewed within five business days of receiving a claim, and information necessary to make an informed and accurate decision on the claim shall be obtained within 10 business days from receiving the claim. The documentation requirement includes a disability assessment, return to work or transitional employment potential, employer information, treating provider information, and any other documentation that will assist in providing a clear and accurate picture of the true claim status. All claim documents, electronic files and notepads shall be the property of the State of Michigan.





All data will be maintained online by the Contractor. Paper files will be retained at the Contractor's site for six months subsequent to close. After six months, the paper files will be sent to a safesite for 10 years of additional retention.

b. Claim Payments: Unless otherwise determined by the State of Michigan, the Contractor shall be responsible for processing all claim payments to eligible state employees. The Contractor shall provide claim payments accurately, with a payment error rate of not more than one percent. All claim payments and associated claim expenses shall be recorded as associated with the individual claim. Claim payments are to be made bi-weekly for those claims less than six months old and monthly for those claims over six months.

The Contractor will complete technical and supervisory reviews on all open cases to identify and pursue coordination of other available benefits, inclusive of Social Security, Workers' Compensation, applicable other income, subrogation and retirement. OSE will provide a monthly report to the Contractor on all new retirement recipients. This report will be distributed to the adjusters for review and documentation of potential coordination. LTD claimants are required to complete and return a reimbursement agreement prior to the initiation of benefits. Additionally, the Social Security Advocates will present the employee with an option to electronically remove overpayment funds from the employee's account.

The LTD Claim Adjuster is responsible for pursuing possible subrogation. This will normally be achieved via telephone and written correspondence with the claimant, and will provide the necessary documentation to support the Contractor's contention. The Contractor will employ its subcontractor(s) to assist in difficult recoveries and those additional costs will be incurred as an Allocated Loss Adjustment Expense. The Contractor has dedicated accounting staff to administer the W-2 function.

The Contractor will manage the assistance provided to claimants for Social Security benefit application via experienced subcontractors. Outside fees incurred for this process are paid as an Allocated Loss Adjustment Expense. The subcontractors selected will assist the employee in the application and if needed, in the appeal process for Social Security. The Contractor assigns only specific portions for the subcontractor(s) to perform and the Contractor maintains current data as to the number of assignments, acceptance percentage, and total costs. Cases meeting Social Security criteria for immediate benefits are referred upon receipt. All other claims are referred at six months for the date of disability for Social Security Disability benefit potential.

c. Overpayments: Overpayments shall be the responsibility of the Contractor and any recoveries shall be credited to the appropriate State account. The Contractor will assure that a process, approved by the State, is in place to recover overpayments as they occur. To the extent the process does not accomplish an immediate recovery of the overpayment, the Contractor will attempt recovery of the overpayment. An overpayment worksheet will be created providing sufficient detail to support the basis for the overpayment. Two collection letters will be sent to the claimant, providing a reasonable period to make repayment arrangements. The two letters should be sent a reasonable period apart. If no repayment arrangements are made by the claimant within 180 days after the initial collection/overpayment notice is sent, a copy of the overpayment worksheet and the two collections letters will be sent to the Michigan Department of Treasury, through the State's Employee Health Management (EHM) Division. The Contractor will be required to provide an overpayment referral worksheet to EHM each month, along with a quarterly complete overpayment status report. Treasury will provide EHM with a monthly overpayment recovery report that will be provided to the Contractor. The Contractor will update the overpayment status report with all overpayment recovery information obtained internally or through Treasury.

d. Contact with Employees: The Contractor shall ensure contact with claimants within three business days from initial receipt of the claim. As a representative of the State of Michigan, contact with employees by the Contractor shall be conducted in a polite and professional manner. Examiners or other representatives of the Contractor who fail to conduct themselves in a manner deemed appropriate by the State of Michigan shall be removed from the State account. Specific standards for this evaluation, based on customer surveys conducted by the Contractor and the State, will be used to evaluate the Contractor's representatives. The Account Manager and CCI will establish specific evaluation criteria. The decision of the State CCI will be final. The Contractor shall assist the State of Michigan in developing informational material that informs the employee of their rights under the State's disability programs and shall assure that information is readily provided to assist employees. A toll-free number shall be established to allow for toll-free claim reporting and separately for toll-free inquiry and information.



e. Independent Medical Examinations: At a minimum, the Contractor shall request independent medical examinations (IME's) when:

1. The treating physician is not cooperating or not in communication.
2. There is a question of disability.
3. There are only subjective complaints.
4. There is a question of how a physician is handling a case.
5. There is a need to substantiate medical findings.
6. Tracking of IME costs and outcomes will be expected under this Contract. Results will be reported to the State's CCI.

The Contractor will utilize various panels of physicians for IME referrals. Physician selection will be based on circumstances of the specific claim to best match the provider with the medical necessity. An IME decision on a complex claim will be discussed between the Claim Adjuster, Claim Manager or Supervisor and the Disability Nurse. The Contractor will have a panel of approved clinics to share with the State. The Contractor will utilize board-certified physicians, although not all of them may be actively practicing. The Contractor will formally review the panel on an annual basis to ensure a high-quality level of service.

f. Medical Case Management: A medical consultant or medical case manager, defined as an employee with a relevant clinical background in nursing or medicine (RN, MD), shall be utilized, at a minimum, in the following situations.

1. When an employee is not responding to treatment.
2. When there is a lack of compliance with medical regimen.
3. When there is a chemical dependency.
4. When there is a long-term physiotherapy.
5. When there is prescription medication dispensed long-term (over 1 year).
6. When physician visits are more than is typical for the type of injury/illness.
7. When referrals are more than typical for the type of injury/illness.
8. When prescriptions are more than typical for the type of injury/illness.
9. When the case extends substantially beyond the expected resolution date.
10. When the medical situation is a mix of occupational/non-occupational conditions.
11. When the employee and/or their support system are not capable of coordinating services, setting appointments or comprehending medial needs.
12. When the employee does not comply with medical treatment.
13. When the original injury or illness causes a secondary health problem to occur.

In addition to those situations stated above, the adjuster will work with the nurse and identify the appropriate Nurse Case Manager for assignment. The Contractor's on-staff nurse will manage the oversight of the Nurse Case Manager Assignment process inclusive of reporting, billing and licensure. Approximately five to ten percent of the Contractor's files will involve case management assignments, ranging from a one-task assignment to very involved injuries requiring a Nurse Case Manager for an extended period of time. The Claim Adjuster will be trained to recognize cases requiring case management assignments. The Claim Adjuster will have the authority and will utilize the available Nurse Case Manager to complete the assignment. Open claims will have a supervisory diary to provide an additional level of control identifying claims requiring assignment.

The Contractor's claim platform will capture primary, secondary, and tertiary diagnoses. The Contractor will utilize industry standard guidelines to determine appropriate disability durations. The Contractor's claim platform will automatically flag claims for the same person in the initial entry screen. This will identify employees with prior claims.

g. Methods for Claim Receipt: The Contractor shall be able to receive claims by any method, including telephone (toll-free), facsimile (fax), e-mail, regular mail delivery, electronic data transfer, and Internet based claim service. While all of these claims reporting methods are not currently in place, the Contractor shall be in a position to implement any of these claim reporting methodologies upon request. Electronic protocols for electronic data transfer will be identified by the State of Michigan at the time such service becomes available. It shall be the responsibility of the Contractor, within the scope of this Contract, to develop at their own expense, the necessary electronic interfaces or file transfer protocols to allow such electronic file transfer to occur. To the extent the State obtains an electronic claim data management system, the Contractor will be required to interface with that system in a manner acceptable to the State.



The Contractor will be responsible for providing a Disability Claim Data Management System acceptable to the State that will be a web based e-filing system responsible for the collection, submission and tracking of all injury and illness claims. The System will also collect incident reports and eliminate the manual reporting functions that may currently exist. The State has evaluated and selected RISKMASTER® X, supplied by the Computer Sciences Corporation (CSC), as the preferred Disability Claim Data Management System. If directed by the State, this system will be acquired by the Contractor as part of this Contract. The system will be the property of the State of Michigan and will be housed at the State of Michigan. The estimated cost of this system is \$400,000. That amount is included as a first year fixed pass-through expense in this Contract. Any additional modifications or enhancements will require a statement of work outlining project management and programming time and will be billed on a time and expense basis.

h. Subrogation: The Contractor is required to review and monitor all claims which might involve third-party liability and to pursue subrogation against any and all outside parties for which this subrogation may be appropriate. The Contractor must document all subrogation standard operating procedures. Contact with the State's CCI is recommended prior to actively pursuing a questionable third-party situation. All amounts received in subrogation shall be provided to the State of Michigan as a reduction of the cost of the claim expenses recorded for that specific claim. Subrogation expenses are to be included as part of the per claim fees assessed by the Contractor as part of the normal claim fee. This includes bankruptcy courts for overpayment recoveries.

i. Three Point Contact: The Contractor is required to document all attempts to contact the employee, the employer, and the treating provider, within three business days from the time the claim is received by the third-party administrator. The information obtained from this contact shall be accurately documented in the claim file. This information shall form the basis for any subsequent decisions relative to the payment of the claim and shall be placed in the file within 24 hours of receipt. The Contractor is responsible for making payment decisions on behalf of the State of Michigan within the parameters described in the relevant statutes and policies of the State.

The State will be notified primarily via email. These notifications typically include claimant location, first date of disability, last day worked, eligibility date and plan type. The Claim Adjuster will notify the contact person at the department of their determination to disclose any unusual circumstances, or whether the claim will be delayed or denied, and the reasoning for the delay or denial.

j. Fraud Investigation: If claimant fraud is detected, the Contractor is responsible for conducting investigations. All relevant evidence shall be immediately turned over to the State's CCI. The CCI or the appropriate office will maintain responsibility for investigation and will interact with the Contractor's fraud unit on an as needed basis. All external investigation fees will be charged to the affected case file as an Allocated Loss Adjustment Expense.

#### 4. Disability Management

a. The State of Michigan is active in pursuing return-to-work efforts through its disability management program. Initial claims review includes medical evaluation and review (performed by the third-party administrator's medical review personnel). The disability management model used by the State of Michigan has six primary components.

- At risk claims
- Case management
- Rehabilitation
- Return-to-Work
- Disability Management Transitional Employment Program

b. At Risk Claims: The State of Michigan promotes the identification of "at risk" work related situations and circumstances that may lead employees to eventually be placed on one of the State's disability programs. To the extent early identification and intervention can prevent an employee from going off work on a benefit program, the State promotes interventions for these "at risk" employees. Participation by employees in the program is voluntary. The provision of services to "at-risk" employees will be documented by a licensed provider, reviewed by the employing agency, and concurred with by the department representative. These services may include, but are not limited to job site analysis, rehabilitation services, and medical evaluation.





c. Case Management: The State of Michigan promotes case management in each department throughout state government. Each department typically has a Case Manager who is designated as the individual department representative dealing with the Contractor. There are approximately 31 Department Case Managers. It is the responsibility of the Contractor to assure that all efforts are made to assist the departmental case managers and, when requested, to participate when possible in any case management meetings reasonably scheduled by the department. Any case specific issues between the department and the Contractor that cannot be resolved shall be referred to the State's CCI or designee, and the Contractor's Account Manager. The decision of the State's CCI or designee will be final. For the purpose of addressing claim specific issues, the State's CCI may also reasonably schedule periodic meetings. It is required that the Contractor provide a senior claims person or case manager to participate in these meetings.

d. Rehabilitation: The State of Michigan supports and promotes the use of rehabilitation services as a means to enhance a claimant's ability to return to work in a more expeditious manner. The Contractor shall support this rehabilitation philosophy to assure that state employees receive the most beneficial rehabilitation services possible consistent with their specific disability situations. A claimant who continues on a disability benefit beyond six months (sooner, at the request of the employee) will be referred by the Contractor to a Michigan Rehabilitation Service (MRS) office near their home. The Contractor will make the referral via a State of Michigan letter. The claimant decides if he/she will pursue services with the MRS office to determine if they are eligible for vocational rehabilitation services. Participation in rehabilitation is voluntary.

e. Return-To-Work (RTW): The return-to-work component is a process whereby the employing department attempts to identify areas within the employee's existing department where the employee can return to work, with or without accommodation. The Contractor is required to work with departmental case managers in an attempt to promote this return to work effort, and to assure that the information and documentation necessary to assist case managers is readily available in the claim file.

Any medical report received by the Contractor will be compared to the job requirements to determine if the employee can return to work unrestricted. If this is not probably, the next step will be to analysis by the Claim Adjuster of the abilities of the injured employee. This will then be shared with the State's designated contact person to discuss a RTW via restricted or modified work duties. Communication will be on-going between the Claim Adjuster, the injured employee returning to work and the State's contact person. A vocational manager may be assigned to help facilitate this process on more serious cases or with reluctant employees.

f. Disability Management Transitional Employment Program: The State of Michigan is implementing disability management transitional employment programs throughout state government. This process includes the identification and development of tasks into temporary assignments which employees are placed into for limited periods of time. Disability management transitional employment is only used when an employee would be returning to their regular job in less than six months. These disability management transitional assignments are intended to be temporary and under normal circumstances, the entire disability management transitional employment process will not exceed 6 months. While employees are participating in disability management transitional employment assignments, the Contractor is required to support the effort and allow the employee entry or re-entry into the benefit program without penalty for participation in the disability management transitional employment program. Participation by employees receiving long-term disability benefits is voluntary.

## 5. Recordkeeping

Claim File Documentation: All files shall be documented in a manner that allows the casual reviewer the ability to quickly determine the current status of a claim. Files shall be documented with all pertinent material related to the claim and such documentation shall be current in the file within 24 hours from the date of receipt by the Contractor. Claim files shall be separated to reflect the distinct aspects of the claim. Examples include medical documentation, legal notices, litigation correspondence, payment information, etc. Claim examiner notes shall be current within 24 hours and shall be electronically generated with hard copies placed in the claim file. EHM shall have electronic access and be able to copy into a Microsoft Office format all claim information maintained by the Contractor. Such electronic information shall include all information necessary to identify and determine current status and activity for a claim. Care shall be taken to assure that any HIPPA regulations are not violated.



- a. Documentation Ownership: All hard copy and electronic claim files, data and documentation associated with all claim files shall remain the property of the State of Michigan. Any software developed by the Contractor utilizing funds provided under this Contract will become the property of the State of Michigan. Any capital equipment purchased utilizing funds provided under this Contract shall remain the property of the State of Michigan.
- b. Freedom of Information Act: The Freedom in Information act applies to information prepared by the State of Michigan and which is a form, electronic or hard copy, available for reproduction. Reports need not be created, nor are draft notes or draft documents accessible under the Freedom of Information Act. Any and all requests for information under the Freedom of Information Act that relates to files or data maintained by the Contractor on behalf of the State of Michigan shall be directed to the State's CCI for proper disposition.
- c. State Access to Files: The State of Michigan shall receive all paper and electronic files and have electronic and paper access to any and all files maintained by the Contractor upon providing reasonable verbal or written notice to the Contractor of the need for such information. All requests for such information shall be provided through the State's CCI. The Contractor must comply with all legislated medical information privacy regulations.
- d. State Reporting Requirements: All reporting requirements contained in Insurance Regulations, other State Statutes, Federal Legislation, or State Directives shall be the responsibility of the Contractor on behalf of the State of Michigan.

#### 6. Appeals Process

The appeal process is regulated by Civil Service Regulation 5.18. The regulation may be found at:

[http://www.michigan.gov/documents/Regulation\\_5\\_128248\\_7.18.pdf](http://www.michigan.gov/documents/Regulation_5_128248_7.18.pdf)

This regulation provides for classified employees to file complaints regarding benefits under group insurance plans. There are five levels to the appeal process. The first two appeal requests are with the Contractor. The Contractor will conduct a thorough and timely review for each appeal request. The Level I and Level II appeals with the Contractor will be required to have a committee review and recommend a decision. If the claimant has been denied at the Level I appeal and requests a Level II review, then a different staff committee will review and recommend a decision. Appeal Levels III, IV and V are with the State of Michigan.

#### 7. Technical Environment:

The State of Michigan operates with a Lawson based Human Resource Management Network (HRMN). This is an ORACLE based operating system. The Contractor's technical environment shall be compatible with this system. All reporting and data requested under this Contract will be "Microsoft Office" compatible.

#### 8. Program Requirements

The Contractor agrees to provide the minimum program requirements necessary to provide long-term disability claims administration services to State of Michigan as listed below. The specific detail for program requirements is depicted throughout Article 1.

| Program Requirements                | Will Comply     | Will Not Comply | Will Comply w/Exception |
|-------------------------------------|-----------------|-----------------|-------------------------|
| <b>1. Claims Administration</b>     |                 |                 |                         |
| A. Account Manager                  | X               |                 |                         |
| B. Audits                           | X (see note #1) |                 |                         |
| C. Billings                         | X               |                 |                         |
| D. Fees                             | X               |                 |                         |
| E. Staffing                         |                 |                 | X (see note #2)         |
| F. Turnaround Times and Accuracy    | X               |                 |                         |
| <b>2. Claims Processing</b>         |                 |                 |                         |
| A. Claim File Documentation         | X               |                 |                         |
| B. Claim Payments                   | X               |                 |                         |
| C. Contact with Employees           | X               |                 |                         |
| D. Independent Medical Examinations | X               |                 |                         |
| E. Disability Case Management       |                 |                 | X (see note #3)         |



|                                      |   |  |                 |
|--------------------------------------|---|--|-----------------|
| F. Methods for Claim Receipt         | X |  |                 |
| G. Subrogation                       |   |  | X (see note #4) |
| H. Three Point Contact               | X |  |                 |
| I. Fraud Investigation               | X |  |                 |
| <b>3. Disability Management</b>      |   |  |                 |
| A. At Risk Claims                    |   |  | X (see note #5) |
| B. Case Management                   |   |  | X (see note #3) |
| C. Return to Work                    |   |  | X (see note #5) |
| D. Work Experience                   | X |  |                 |
| E. Transitional Employment           | X |  |                 |
| F. Appeals                           | X |  |                 |
| <b>4. Recordkeeping</b>              |   |  |                 |
| A. Claim File Documentation          |   |  | X (see note #6) |
| B. Documentation Ownership           |   |  | X (see note #7) |
| C. Freedom of Information Act        | X |  |                 |
| D. State Access to Files             | X |  |                 |
| E. State Reporting Requirements      | X |  |                 |
| <b>5. Reporting Documentation</b>    |   |  |                 |
| A. Ad Hoc Reports                    | X |  |                 |
| B. Monthly Billings                  | X |  |                 |
| C. Monthly Payment Reports           | X |  |                 |
| D. Quarterly Long-Term Claim Reports | X |  |                 |
| E. Quarterly Loss Histories          | X |  |                 |
| F. Semi-Annual Metrics Reporting     | X |  |                 |

Note 1: The State will be responsible for the payment of any third party audit, except as allowed in Section 2.115 of this Contract.

Note 2: The Contractor will outsource physicians, defense counsel, vocational rehabilitation, medical rehabilitation, independent adjuster for surveillance, activity checks, copy services, mileage and transportation fee, expert/witness depositions, court reporter transcriptions, Social Security advocacy, medical reports and Alive & Well checks and pay as an Allocated Loss Adjustment Expense (ALAE) off the specific file.

Note 3: For cost efficiency, case managers may or may not be employees. If not, these fees are charged to the file as an ALAE.

Note 4: All internal subrogation efforts are included. Any outside fees are charged to the file as an ALAE.

Note 5: The Contractor will jointly develop with the State and costs may not be inclusive.

Note 6: Some documentation may not be in hardcopy form; however, the Contractor is willing to discuss with the State which documents may or may not be required to be in hardcopy form.

Note 7: The Contractor agrees with the exception that Capital & Equipment purchased by the Contractor shall belong to the Contractor.

### **1.030 Roles and Responsibilities**

#### **1.031 Contractor Staff, Roles, and Responsibilities**

The Contractor shall provide the appropriate staff for this Contract. The State and the Contractor agree that the following personnel are Key Personnel for purposes of this Contract:



- Account Manager
- Dedicated Claims Team Leader
- Senior Clinician
- Implementation Manager
- Lead IT Consultant
- Others as Agreed Upon by State and Contractor

### **1.040 Project Plan**

#### **1.041 Project Plan Management**

##### **1. Project Control**

- 1) The Contractor will carry out this project under the direction and control of the Contract Compliance Inspector, Employee Health Management, Office of the State Employer.
- 2) Monthly meetings will be conducted with the Contractor's Account Manager or designee for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems, which arise. In addition, there will be ongoing communication with the Contractor's team.
- 3) As agreed upon by the respective CCIs, the Contractor will submit written summaries of progress outlining the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the State's CCI; and notification of any significant deviation from previously agreed-upon work plans.
- 4) The Contractor will submit to the State's CCI for final approval a work plan, which must include the following:
  - 1) The Contractor's project organizational structure.
  - 2) The Contractor's staffing table with names and title of key personnel assigned to the project as well as other necessary staff.
  - 3) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each for implementation and start-up. Implementation tasks should include marketing, statewide seminars, promotional material, and staffing for all presentations.
  - 4) The time-phased implementation plan in the form of a graphic display, showing each event, task, and decision point in your work plan.

Within 10 days of the award of the Contract, the Contractor will attend a project kick-off meeting to present its proposed implementation plan. This plan will include the Contractor's documented approach for handling existing open claims as of the Contract effective date.

#### **1.042 Reports**

All records and bills shall be maintained in a suitable electronic format. The system must be able to convert all the previous years of data into electronic format compatible with Microsoft Office.

- a. Ad Hoc Reports: Ad Hoc reports may be requested by the State's CCI on an as needed basis. It is the responsibility of the Contractor to comply with such requests. If the requests are of such magnitude to require additional information technology resources or staffing commitments, the Contractor shall document such requirements and provide a cost estimate to the State. Development of ad-hoc reports will only proceed with written authorization from the State's CCI. Any requests for ad-hoc reporting from other than the State's CCI shall be directed to the State's CCI for review and approval.
- b. Monthly Invoices and an FY Annual Payments Data Base: Invoices will be provided to the State of Michigan on a monthly basis. Invoices will be provided within 10 working days from the end of the month for which the bill applies. Invoices should include all identifiable costs associated with providing administrative services under this agreement and shall be defined and broken down by department and agency codes. Any changes in the invoices must be confirmed with EHM.



- c. Reports: The State requires the Contractor to provide EHM a Microsoft Access electronic database on CD that will include all data elements to run the following four preprogrammed reports. The database must include the ability to edit the reports and run additional customized reports on any combination of the data elements included in these four preprogrammed reports. EHM may accept suitable electronic access to internal Contractor data, all below data can be extracted for analysis in Access and/or Excel. The reporting hierarchy shall be by State, State Department and Process Level. The CD and all reports are due quarterly.

The following reports are required, including but not limited to:

1. LTD Claims Summary Reports by Department and Statewide
2. LTD Lifetime FY Summary Reports by ICD9 Category, Department and Statewide
3. LTD FY Summary Totals By Claim Year
4. Overpayment Master List EXCEL Report Data Fields and Contents

The Contractor will possess the ability to break down reports to three levels within the State. These three levels may be used for agencies, departments, shifts, locations or any other classification the State might deem necessary.

#### **1.050 Acceptance**

##### **1.051 Criteria**

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

Implementation must be accomplished according to the agreed upon timelines. The Director of the EHM Division will determine acceptance of the implementation and will give final approval for the Contractor to begin providing services as identified in Article 1.022.

##### **1.052 Final Acceptance – Deleted/Not Applicable**

#### **1.060 Proposal Pricing**

##### **1.061 Proposal Pricing**

State shall pay Contractor a per claim, per employee or flat fee amount for the performance of all activities necessary for or incidental to the performance of work as set forth in this Contract. For detailed pricing, see Attachment A.

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 the expense at the State's current travel reimbursement rates. See [www.michigan.gov/dmb](http://www.michigan.gov/dmb) for current rates.

##### **1.062 Price Term**

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

##### **1.063 Tax Excluded from Price**

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

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

##### **1.064 Holdback – Deleted/Not Applicable**



### **1.070 Additional Requirements**

#### **1.071 Service Level Agreements**

The Contractor will report on and track the following measures/standards in order to measure compliance with performance. Vendor based performance audits may be verified through external audit activity. The Contractor agrees to allow third party audits to measure performance standards.

Service Level Agreements will be evaluated by the State's Contract Administrator and Contract Compliance Inspector, and the Contractor's Account Manager. The State's Contract Administrator's decision will be final.

The Contractor will put a percentage of fees at risk for failure to comply with the performance standards. The Contractor agrees to performance guarantees as follow:

| Performance Category  | Performance Criteria  | Standard of performance   | Contractor agrees to put the percentage of fees listed below at risk |
|---|---|---|--|
| Customer service to claimant and to State of Michigan (per ACD – generated reports) | Telephone response time/wait time   | 95% within $\leq 1$ minute  | .25%   |
|   | Average speed of answer   | 30 seconds  | .25%   |
|   | Abandonment rate  | $\leq 5\%$  | .25%   |
|   | % of calls that get a busy signal   | $\leq 1\%$  | .25%   |
| Benefit   | Three point contact   | within 48 hours of claim notification. Claim decision within 5 business days of receiving necessary information | 1.00%  |
| Timeliness of payment of claims   | Payment must be issued within 7 days of the end of the time period covered by the payment | 98%   | .25%   |
| Scheduling independent medical exams  | Average Time to Schedule IME's  | Exams scheduled within 5 days of notification with receipt or identifiable need data                            | .25%   |
| Social Security award results   | Application rates<br><2 years<br>2 < 3 years<br>> 3 years                                 | Award rates:<br>50%<br>75%<br>90%   | .25%   |



|  |   |   |      |
|--|---|---|------|
| Financial accuracy                           | Total claim dollars paid correctly divided by total dollars paid                | 99%, with the total based on a net paid basis after application of all recoveries within a reasonable timeframe | .25% |
| Claim coding accuracy                        | % of claims coded accurately divided by total number of claims                  | 95%   | .25% |
| Data tracking, reporting, analyses, accuracy | Delivery date and accuracy of management reports versus end of reporting period | Delivery within 20 calendar days; accuracy as determined by the State   | .25% |
| Account management                           | Phone or mail based survey of key members of client benefits team               | Average of 4 on a 5 point scale   | .50% |
| Implementation                               | Ability to comply with all key deliverable dates and timing                     | Must meet 90% of all implementation criteria  | .50% |
| Rehabilitation Costs                         | Processing "pass-through" rehabilitation costs to selected vendors              | Completed by next billing cycle   | .50% |





## Article 2, Terms and Conditions

### 2.000 Contract Structure and Term

#### **2.001 Contract Term**

This Contract is for a period of five years and two months beginning October 1, 2008 through September 30, 2013. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.130**) of the Contract, unless otherwise extended under 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.

#### **2.002 Renewal(s)**

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to two additional one year periods.

#### **2.003 Legal Effect**

Contractor shall show acceptance of this Contract by signing two copies of the Contract and returning them to the Contract Administrator. The Contractor shall not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a contract release/purchase order that authorizes and defines specific performance requirements.

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.

#### **2.004 Attachments & Exhibits**

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

#### **2.005 Ordering**

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work.

#### **2.006 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 the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(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 the Contract, which may be modified or amended only by a formal Contract amendment.

#### **2.007 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.

#### **2.008 Form, Function & Utility**

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



**2.009 Reformation and Severability**

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

**2.010 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, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

**2.011 No Waiver of Default**

If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

**2.012 Survival**

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, 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.

**2.020 Contract Administration****2.021 Issuing Office**

This Contract is issued by the Department of Management and Budget, Purchasing Operations and the Office of State Employer (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. Purchasing Operations **is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within Purchasing Operations for this Contract is:

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

**2.022 Contract Compliance Inspector (CCI)**

After DMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with OSE, will direct the person named below, or any other person so designated, 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 the Contract as that authority is retained by DMB Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Ken Swisher  
Director, Employee Health Management Division  
Office of State Employer  
400 S. Pine St.  
Capitol Commons Center, 4<sup>th</sup> Floor  
Lansing, MI 48909  
Email: swisherk@michigan.gov  
Phone: 517-373-0438

**2.023 Project Manager – Deleted/Not Applicable**

**2.024 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 Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

**Change Requests:**

- (a) By giving Contractor written notice within a reasonable time, the State must 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 must 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").
- (b) No proposed Change must 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.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

**2.025 Notices**

Any notice given to a party under the Contract must be deemed effective, if addressed to the 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 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: Melissa Castro, CPPB  
PO Box 30026  
530 West Allegan  
Lansing, Michigan 48909

Contractor:  
Citizens Management Inc.  
Attn: Scott Gaffner  
808 N. Highlander Way  
Howell, MI 48843

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

**2.026 Binding Commitments**

Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in this Contract. Contractor may change the representatives from time to time upon written notice.

**2.027 Relationship of the Parties**

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 must be or must 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.

**2.028 Covenant of Good Faith**

Each party must 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.

**2.029 Assignments**

(a) Neither party may assign the Contract, or 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 the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the 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. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign the contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

**2.030 General Provisions****2.031 Media Releases**

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and Contract or project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

**2.032 Contract Distribution**

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

**2.033 Permits**

Contractor must 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 must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

**2.034 Website Incorporation**

The State is not 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 the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

**2.035 Future Bidding Preclusion**

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

**2.036 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").

**2.037 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 man-made disaster.

**2.040 Financial Provisions****2.041 Fixed Prices for Services/Deliverables**

Each Statement of Work or Purchase Order 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. 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.

**2.042 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.

**2.043 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.

**2.044 Invoicing and Payment – In General**

(a) 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.

(b) 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. 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 1.064**.

(c) 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.

(d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) will mutually agree upon. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 10th day of the following month.

**2.045 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.

**2.046 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.

**2.047 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.

**2.048 Electronic Payment Requirement**

Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in Public Act 431 of 1984, all contracts that the State enters into for the purchase of goods and services shall provide that payment will be made by electronic fund transfer (EFT).

**2.050 Taxes****2.051 Employment Taxes**

Contractors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes.

**2.052 Sales and Use Taxes**

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining "two or more trades or businesses under common control" the term "organization" means sole proprietorship, a partnership (as defined in § 701(a)(2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

**2.060 Contract Management****2.061 Contractor Personnel Qualifications**

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must 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 must 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.

**2.062 Contractor Key Personnel**

(a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.

(b) Key Personnel must be dedicated as defined in the Statement of Work 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.

(c) 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.





(d) Contractor must not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel 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. Unauthorized Removals does not include replacing Key Personnel 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 must 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 termination and cancellation rights.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

### **2.063 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 must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must 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 incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

### **2.064 Contractor Personnel 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.

### **2.065 Contractor Identification**

Contractor employees must 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.

### **2.066 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. As reasonably requested by the State in writing, the Contractor will provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. 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 the requests for access.

### **2.067 Contractor Return of State Equipment/Resources**

The Contractor must return 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.

**2.068 Contract Management Responsibilities**

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

**2.070 Subcontracting by Contractor****2.071 Contractor Full Responsibility**

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.

**2.072 State Consent to Delegation**

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 SLA for the affected Work will not be counted for a time agreed upon by the parties.

**2.073 Subcontractor Bound to Contract**

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.

**2.074 Flow Down**

Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any Subcontractors.

**2.075 Competitive Selection**

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.

**2.080 State Responsibilities****2.081 Equipment**

The State will provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.

**2.082 Facilities**

The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor must have reasonable access to, and unless agreed otherwise by the parties in writing must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the 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 the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

**2.090 Security****2.091 Background Checks**

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. 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. The investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/dit>. 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.

**2.092 Security Breach Notification**

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must 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 the use or disclosure or the shorter time period as is reasonable under the circumstances.

**2.093 PCI Data Security Requirements – Deleted/Not Applicable****2.100 Confidentiality****2.101 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 must 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 must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. "Confidential Information" excludes any information (including this Contract) that is publicly available under the Michigan FOIA.



**2.102 Protection and Destruction 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 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) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the 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 the Confidential Information from unauthorized use or disclosure.

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

**2.103 Exclusions**

Notwithstanding the foregoing, the provisions of **Section 2.080** 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 the 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 **Section 2.080** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the 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 the disclosure as reasonably requested by the furnishing party.

**2.104 No Implied Rights**

Nothing contained in this Section must 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.

**2.105 Respective Obligations**

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

**2.110 Records and Inspections****2.111 Inspection of Work Performed**

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

**2.112 Examination of Records**

For seven years after the Contractor provides any work under this Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

**2.113 Retention of Records**

Contractor must maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

**2.114 Audit Resolution**

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

**2.115 Errors**

(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must 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 invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice 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 must pay all of the reasonable costs of the audit.

**2.120 Warranties****2.121 Warranties and Representations**

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must 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 the items in this Contract, Contractor must 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, must have, or must 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 must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must 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 must 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 the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the 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 for the 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 the 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 the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.
- (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

**2.122 Warranty of Merchantability – Deleted/Not Applicable**

**2.123 Warranty of Fitness for a Particular Purpose – Deleted/Not Applicable**

**2.124 Warranty of Title – Deleted/Not Applicable**

**2.125 Equipment Warranty – Deleted/Not Applicable**

**2.126 Equipment to be New – Deleted/Not Applicable**

**2.127 Prohibited Products – Deleted/Not Applicable****2.128 Consequences For Breach**

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

**2.130 Insurance****2.131 Liability Insurance**

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must 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 the 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 under this Contract.

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

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

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

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

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

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

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSURED 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 according to 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 must 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 must 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 the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must 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 must be endorsed on the policy as a loss payee as its interests appear.

### 2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must 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) must 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.

### 2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "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) must 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. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must 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.





The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the 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, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

## **2.140 Indemnification**

### **2.141 General Indemnification**

To the extent permitted by law, the Contractor must 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.

### **2.142 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.

### **2.143 Employee Indemnification**

In any 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 must 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.

### **2.144 Patent/Copyright Infringement Indemnification**

To the extent permitted by law, the Contractor must 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 the 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 the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the 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 must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the 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 the 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 has 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; (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.

**2.145 Continuation of Indemnification Obligations**

The Contractor's duty to indemnify under 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 before expiration or cancellation.

**2.146 Indemnification Procedures**

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

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the 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 the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must 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 before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under 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 may defend the claim in the 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 must promptly reimburse the State for all the reasonable costs and expenses.

**2.150 Termination/Cancellation****2.151 Notice and Right to Cure**

If the Contractor breaches the contract, and the State in its sole discretion determines that the breach is curable, then the State will provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

**2.152 Termination for Cause**

(a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State



(b) If this Contract is terminated for cause, the Contractor must pay 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 are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

(c) If 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 must 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 must cease on the effective date of the termination.

(d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

### **2.153 Termination for Convenience**

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must 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 before the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

### **2.154 Termination for 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 must 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 must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the 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 unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the 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 the reduction.

(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must 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. This Section will not preclude Contractor from reducing or stopping Services/Deliverables 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.

### **2.135 Termination for 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 related to a State, public or private Contract or subcontract.



**2.156 Termination for Approvals Rescinded**

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State will pay the Contractor for only the work completed to that point under the Contract. 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 the written notice.

**2.157 Rights and Obligations upon Termination**

(a) If the State terminates this Contract for any reason, the Contractor must (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) 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 must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the 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) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under 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 under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not 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 may assume, at its option, any 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.

**2.158 Reservation of Rights**

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

**2.160 Termination by Contractor****2.161 Termination by Contractor**

If the State breaches the Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates the Contract.



## **2.170 Transition Responsibilities**

### **2.171 Contractor Transition Responsibilities**

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or 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. If this Contract expires or terminates, 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 270 days. These efforts must include, but are not limited to, those listed in **Sections 2.141, 2.142, 2.143, 2.144, and 2.145.**

### **2.172 Contractor Personnel Transition**

The Contractor must 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 must 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.

### **2.173 Contractor Information Transition**

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.

### **2.174 Contractor Software Transition**

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This must 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 must, 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.

### **2.175 Transition Payments**

If the transition results from a termination for any reason, reimbursement must 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 agreed upon by the State. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

### **2.176 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.

## **2.180 Stop Work**

### **2.181 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 must be identified as a stop work order and must indicate that it is issued under this **Section 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring 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 must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.130**.

**2.182 Cancellation or Expiration of Stop Work Order**

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must 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 2.024**.

**2.183 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, the termination must be deemed to be a termination for convenience under **Section 2.130**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.150**.

**2.190 Dispute Resolution****2.191 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 must 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 must submit a letter, together with all data supporting the claims, executed by Contractor's Contract Administrator or the Contract Administrator's 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 claim and the supporting data are current and complete to Contractor's best knowledge and belief.

**2.192 Informal Dispute Resolution**

(a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary 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 must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section 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 under **Section 2.163**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

**2.193 Injunctive Relief**

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.162** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the 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.

**2.194 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 must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

**2.200 Federal and State Contract Requirements****2.201 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 under 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.

**2.202 Unfair Labor Practices**

Under 1980 PA 278, MCL 423.321, et seq., the State must 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 under 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, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after 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.

**2.203 Workplace Safety and Discriminatory Harassment**

In performing Services for the State, the Contractor must 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 must 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>.

**2.210 Governing Law****2.211 Governing Law**

The Contract must in all respects be governed by, and construed according to, 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.

**2.212 Compliance with Laws**

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

**2.213 Jurisdiction**

Any dispute arising from the Contract must 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 the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the 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.

**2.220 Limitation of Liability****2.221 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does 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.

**2.230 Disclosure Responsibilities****2.231 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, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) 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; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. 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. If any Proceeding disclosed to the State under 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) to continue to perform this Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
  - (a) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
  - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

(c) Contractor must 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 must notify DMB Purchasing Operations.
- (2) Contractor must also notify DMB 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 must also notify DMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

**2.232 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 is a material breach of this Contract.



**2.233 Bankruptcy**

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 the Works in Process by whatever appropriate method the State may deem expedient if:

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;
- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under this Contract.

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 must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

**2.240 Performance****2.241 Time of Performance**

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to 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 2.211(a)**, Contractor must 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 must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

**2.242 Service Level Agreements (SLAs)**

- (a) SLAs will be completed with the following operational considerations:
  - (i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
  - (ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
  - (iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
  - (iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
    - 1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
    - 2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.
- (b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.



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

(d) All decimals must be rounded to two decimal places with five and greater rounding up and four and less rounding down unless otherwise specified.

#### **2.243 Liquidated Damages – Deleted/Not Applicable**

##### **2.244 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 the 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 a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the 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.

If a party does not perform its contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. But the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the 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 is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will 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 the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/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.

#### **2.250 Approval of Deliverables**

#### **2.251 Delivery Responsibilities – Deleted/Not Applicable**

##### **2.252 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 must be completed and delivered for State review and written approval and, where applicable, installed according to the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

#### **2.253 Testing – Deleted/Not Applicable**

**2.254 Approval of Deliverables, In General**

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection 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) Before 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 according to **Section 2.253**.

(d) The State will approve in writing a Deliverable/Service after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, but is 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 opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the 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 the breach. Notwithstanding the foregoing, the State cannot 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 the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.

**2.255 Process for Approval of Written Deliverables**

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (and if the Statement of Work does not state the State Review Period, it is by default five Business Days for Written Deliverables of 100 pages or less and 10 Business Days for Written Deliverables of more than 100 pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable before its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State notifies the Contractor about deficiencies, the 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.



**2.256 Process for Approval of Services**

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the 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. The 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.

**2.257 Process for Approval of Physical Deliverables – Deleted/Not Applicable****2.258 Final Acceptance**

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. 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.

**2.260 Ownership****2.261 Ownership of Work Product by State**

The State owns all Deliverables as they are works made for hire by the Contractor for the State. The State owns all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

**2.262 Vesting of Rights**

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

**2.263 Rights in Data**

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The 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 the Contractor. No employees of the 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, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

(b) The State is the owner of all State-specific data under 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 may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

**2.264 Ownership of Materials**

The State and the 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.

**2.270 State Standards****2.271 Existing Technology Standards**

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

**2.272 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>. 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.

**2.273 Systems Changes**

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

**2.280 Extended Purchasing – Deleted/Not Applicable****2.290 Environmental Provision****2.291 Environmental Provision**

Energy Efficiency Purchasing Policy – The State seeks wherever possible to purchase energy efficient products. This includes giving preference to U.S. Environmental Protection Agency (EPA) certified 'Energy Star' products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable products.

Environmental Purchasing Policy – The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

**Hazardous Materials:**

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



(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State and local laws. The State must provide a safe and suitable environment for performance of Contractor's Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.212** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit [http://www.michigan.gov/deq/0,1607,7-135-3310\\_4108-173523--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html)

#### Refrigeration and Air Conditioning:

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

#### Environmental Performance:

Waste Reduction Program - Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).



**Attachment A, Price Proposal**

**A. CONFIRMATIONS**

| Requirement   | Confirmed Compliance |    | If No, Explanation  |
|---|----------------------|----|---|
|   | Yes                  | No |   |
| No commissions to any agent or broker will be paid.   | X                    |    |   |
| Confirm that all future rate adjustments will be communicated in writing at least 120 days in advance of the effective date and will include a complete description of the methodology used, an itemization of all assumptions and experience and a precise identification of expense factors and claims. | X                    |    |   |
| Confirm that your quoted fee or premium includes basic administrative, clinical case management and payment services.   |                      | X  | Yes for basic administration and payment services. No on clinical cases management, which will be charged as an ALAE. |
| Money for benefit payments will be electronically transferred from State of Michigan's bank account.  | X                    |    |   |
| Confirm that all rates are for coverage on a guaranteed-issue basis.  |                      |    | Not applicable.   |
| 5Year Rate Guarantee  | X                    |    |   |

**Self-Insured Non-Contributory Long-Term Disability Rating Proposal:**

Self Insured Composite LTD Rates for New Claims (i.e., open after 10/1/08)

|   | <b>Year 1</b> | <b>Year 2</b> | <b>Year 3</b> | <b>Year 4</b> | <b>Year 5</b> |
|---|---------------|---------------|---------------|---------------|---------------|
| Number of employees   | 46,947        | 46,947        | 46,947        | 46,947        | 46,947        |
| Per employee per month<br>(i.e., flat fee)                      | 1.95          | 2.00          | 2.00          | 2.05          | 2.05          |
| Subtotal  | 1,098,560     | 1,126,728     | 1,126,728     | 1,154,896     | 1,154,896     |
| Number open claims  | 3,500         | 3,500         | 3,500         | 3,500         | 3,500         |
| Total claim set up fees<br>(one-time per claim fee)             | 350           | 360           | 360           | 370           | 370           |
| Open claim maintenance<br>fee (per open claim fee per<br>month) | 32            | 33            | 33            | 34            | 34            |
| Subtotal  | 2,569,000     | 2,646,000     | 2,646,000     | 2,723,000     | 2,723,000     |
| Est. Number Annual<br>checks                                    | 38,400        | 37,800        | 37,800        | 37,800        | 37,800        |
| Check fee (if applicable)                                       | 14            | 14.50         | 14.50         | 15            | 15            |
| Subtotal  | 537,600       | 548,100       | 548,100       | 567,000       | 567,000       |
| Total cost  | 4,205,160     | 4,320,828     | 4,320,828     | 4,444,896     | 4,444,896     |


**Self-Insured Long-Term Disability Rating Proposal (ASO):**

| Verification of Included Services for Basic Long-Term Disability ASO Fees | ✓ If Services Included in Fees | Fee/Basis | Annual Cost Projection |
|---|--------------------------------|-----------|------------------------|
| Summary Plan Descriptions – Drafting                                      | X                              |           |                        |
| Summary Plan Descriptions – Printing                                      |                                | X         | (as incurred)*         |
| Extraordinary claim investigation   |                                | X         | (as incurred)*         |
| Independent medical exams coordination and set up                         | X                              |           |                        |
| Additional claim status reports   | X                              |           |                        |
| Actuarial and other services  |                                | X         | (as incurred)*         |
| Travel for meetings/claim investigation                                   | X                              |           |                        |
| W-2 preparation and distribution  | X                              |           |                        |
| Social Security assistance  |                                | X         | (as incurred)*         |
| Standard reports  | X                              |           |                        |
| Ad hoc reports  |                                | X         | (as incurred)*         |
| FICA withholding  | X                              |           |                        |
| Attorney fees   |                                | X         | (as incurred)*         |
| Doctor/Hospital record fees   |                                | X         | (as incurred)*         |
| Client On-line access   | X                              |           |                        |
| Dedicated 800#  | X                              |           |                        |
| E-mail set-up/electronic interface  |                                | X         | **                     |
| RTW Coordination  | X                              |           |                        |
| Other (specify whether it is ongoing or start-up)                         |                                | X         | ***                    |

\* Charges are processed as an Allocated Loss Adjustment Expense.

\*\* Email communication with attachments and interfaces for internet claim reporting and claim system viewing are standard and included. Requests for development of other interfaces would be subject to program development costs based on complexity of request. CMI acknowledges that they are responsible for creating basic interface for data transfer with Riskmaster X system.

\*\*\* Telephone recording (ongoing) – Telephone recordings are available by CD or transcription. CMI will provide up to 24 CD records annually at no cost, \$10 per CD thereafter. Transcription is provided at \$25 per hour of transcription time per request.

**Implementation and Start-Up Costs For Long Term Disability Program Proposal:**

|   | Assumptions              | 1st Year Costs       |
|---|--------------------------|----------------------|
| Cost for planning meetings/program design                                     | # meetings, travel costs | \$ 0*                |
| Cost to provide training to State of Michigan employees                       | # days/hours included    | \$ 0*                |
| Cost to populate systems with State of Michigan specific data                 |                          | \$ 0*                |
| Cost to train dedicated client team on State of Michigan program requirements |                          | \$ 0*                |
| Other (Describe in detail)  | Data Conversion          | \$ 20,000 – 40,000** |
| Electronic Claim Data Management System                                       |                          | \$ 400,000           |
| Total Implementation Costs  |                          | \$ 420,000,- 440,000 |

\* As the existing TPA, there is no cost.

\*\* For data conversion and transfer from TPA vendor to State housed Electronic Claim Data Management System. Estimated cost range is provided and true cost is dependent on the extent and complexity of the data population. Project management and programmer development time to be billed on a time and expense basis.