

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

July 15, 2009

NOTICE
OF
CONTRACT NO. 071B9200191
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Ikon Office Solutions, Inc. 26800 Meadobrook Suite 101 Novi, MI 48377-3520 Email: cbertrand@ikon.com		TELEPHONE Carol Bertrand (248) 569-8060 (248) 909-2059 (cell)
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-3993 Dale N. Reif
Contract Compliance Inspector: Reid Sisson MiPRINT – Office Document Output Management Services		
CONTRACT PERIOD: From: April 10, 2009 To: April 9, 2014		
TERMS N/A	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION:		

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

Estimated Contract Value: **\$10,000,000.00**

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MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of ITB #07118200301, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence. Estimated Contract Value: \$10,000,000.00		

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

FOR THE CONTRACTOR:

Ikon Office Solutions, Inc.
Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature
Elise Lancaster, Director
Name/Title
Purchasing Division
Division

Date



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

**Buyer Information:
Dale N. Reif
(517) 373-3993
reifd@michigan.gov**



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Definitions

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	See Section 2.110
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	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
CPM	Contract Program Manager– responsible for the implementation and administration of the overall contract.
Days	Means calendar days unless otherwise specified.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DIT	Michigan Department of Information Technology
DMB	Michigan Department of Management and Budget
ECM	Enterprise Contract Manager –the ECM is responsible for managing the contract and establishing product standards leased and purchased under the contract.
EDI	“Electronic Data Interchange,” meaning an electronic process for invoicing
Environmentally preferable products	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 that contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.
EPM	“Enterprise Program Manager,” Meaning the State of Michigan representative responsible for the management of the MiPRINT program.
Excusable Failure	See Section 2.244.
Hazardous material	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	Any interruption in Services.
ITAM	Information Technology Asset Management
ITRAC	The State’s web application for requesting and tracking IT commodity purchases.
Joint Operations Meeting	A monthly meeting with the Contractor will be held with MDIT personnel to discuss contract issues, service level agreements (SLAs), required reports, and other issues.
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
MAIN	“Michigan Administrative Information Network”
MFD	“Multi-functional Device,” meaning document input/output devices that perform more than one function (copy, print, fax etc.)
MIPRINT	“MiPRINT” meaning the state program designed to address document output workflow evaluation, device recommendation and placement, and full support services.
MIPRINT Steering Committee	The State representatives responsible for strategic direction, policy setting and policy compliance issue review and recommendation to EPM and State Department Executives for resolution.
New Work	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.
OAS	MDIT Office Automation Services
OEM	Original Equipment Manufacturer
Ozone-depleting substance	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, hydro chlorofluorocarbons
PCI	Payment Card Industry (See Section 2.093)
Post-Consumer Waste	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	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Production Printers	Production devices are high volume print devices capable of 500,000 or more duty cycles per month.
Recycling	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.
Deleted – Not Applicable	Section is not applicable or included in this contract. This is used as a placeholder to maintain consistent numbering.
Reuse	Using a product or component of municipal solid waste in its original form more than once.
SLA	Service Level Agreement
Services	Any function performed for the benefit of the State.
Source reduction	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.
SOM	The State of Michigan
SPOC	Single Point of Contact
SSL	Secure Socket Layer - a protocol for transmitting private documents via the Internet . SSL uses a cryptographic system that uses two keys to encrypt data – a public key known to everyone and a private or secret key known only to the recipient of the message.
State Location	Any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
Subcontractor	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.
SUPPLIES	All staples, toner and chemicals, required for operation of a multifunction device excluding paper.
Unauthorized Removal	Contractor's removal of Key Personnel without the prior written consent of the State.
Waste prevention	Source reduction and reuse, but not recycling.
Waste reduction and Pollution prevention	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	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 ONE

1.0 GENERAL

1.0.1 PURPOSE

The State of Michigan (State), through the Michigan Department of Management & Budget (MDMB), and the Michigan Department of Information Technology (MDIT), issued this contract to procure output devices and limited services for all State of Michigan departments and agencies. The State of Michigan has extended this contract for use by extended purchasing MiDEAL members (city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community or junior college in Michigan).

1.0.2 BACKGROUND

The State currently purchases its output devices from the Michigan Master Computing Contract. This contract offers all current printer, copier, scanner and fax devices and associated services and support. Fax devices offered through the contract are high volume only. High volume fax machines are defined by MDIT as any fax device with monthly usage of more than 200 pages total with a cost of \$500 or more.

The primary objectives of this contract for the State are:

- Implement flexible output solutions to meet the varied business needs of State agencies
- Increase office productivity and provide cost-effective and energy-efficient office document output production that leverages advancing technology
- Use industry expertise to select optimal output solutions
- Achieve maintenance and internal efficiencies with standard solutions that meet agency business needs while reducing diversity of output devices

1.0.3 IN SCOPE

The scope of the Contract includes the purchase of input/output devices in the office work area environment. This Contract includes the option to procure wide-media plotting devices for technical specifications printing.

This contract is intended as a mandatory use contract. However, the State reserves the right to purchase commodities and services outside of this contract when it determines that an item's pricing is not competitive.

A more detailed description of the commodities, services and deliverables sought by the State is provided in the sections that follow.

The procurement process has the following goals and objectives:

- Web-based, self-service purchasing environment that extends product selection and order initiation to MDIT employees and MDIT Clients using a Product Web Catalog.
- Ability to integrate acquisition of products from this contract in to the State's enterprise and legacy systems (MAIN, etc.) as a future goal of the State.
- To acquire reliable and proven products, effective support, timely deliveries, professional customer support services and fair market prices for commodities and support.
- A dynamic pricing arrangement that fluctuates with the market trends within State- managed programs. The pricing arrangement shall allow the State of Michigan to take advantage of price reductions in a timely manner.
- Manage information technology acquisitions at an enterprise level in order to reduce direct and hidden costs associated with information technology ownership. The contract will capture information, provide reports, and incorporate tools to facilitate the management of the enterprise.



1.0.4 OUT OF SCOPE

Production, high-volume, print devices are out of scope.

REQUIREMENTS/DELIVERABLES FOR ALL PRODUCTS

1.0.5 PRODUCT WEB CATALOG

The Contractor is responsible for providing an electronic, web-based catalog (portal). The Contractor and the MDIT Catalog Administrator will mutually agree upon the specific information placed on the Product Web Catalog. Review and approval of the Product Web Catalog will be the responsibility of the MDIT Catalog Administrator. The State must approve all additions, deletions, or changes to the State specified products listed on the Product Web Catalog unless specified differently below. The portal will meet the following requirements:

- 1) The Product Web Catalog must be available via the Internet and accessible on a 24 X 7 X 365 basis.
- 2) The site must use SSL certificates on the Web servers. These should be class 3 Digital ID's issued by Verisign or equivalent.
- 3) The site must be PCI compliant.
- 4) The site should use 1024-bit strength or better encryption in the generation of the public keys web-based catalog available via the Internet. The State will work with the Contractor to determine the requirements for the Product Web Catalog including access levels, views, and appropriate security.
- 5) Complex password methodology is required.
- 6) Provide a single point of online access to the products covered by this contract. Enable users to access a catalog via multiple views based on login describing all items available under the program.
 - a) For the State Agencies (executive branch) catalog view, only approved products meeting the State's standards will be available to most users. Super users will be able to view the entire product catalog.
 - b) At the Judiciary or Legislative (non-executive) branch catalog view, only products appropriate to the contract may be included.
- 7) A user must be able to browse the product catalog and build an order by filling a "shopping cart" with products. For each product, the system will provide a quoted State price in effect at the time the order is created. The portal will provide the following order entry features:
 - a) User can create multiple shopping carts
 - b) Shopping carts will allow for flexible State-defined entry fields for administrative purposes
 - c) Unique cart identifier
 - d) Side-by-side product comparisons when available
 - e) Extensive search capabilities
 - f) Full product catalog per selected view
 - g) View previous shopping carts/orders with the ability to copy a previous shopping cart/order into a new shopping cart/order.
 - h) Shopping carts/orders will be maintained for a minimum period of 90 days.
 - i) Punch-out to OEM supplier catalogs on the Contract to obtain detailed product specifications, FAQ's, problem resolution, etc., and allow for custom configurations and import into the shopping cart when offered by the OEM.
 - j) Where possible, user views of the catalog will include standard accessories and peripheral items that are applicable and compatible with each product approved under the contract.
 - k) Create a proposed order consisting of systems, accessories and other products. (a draft order - "shopping cart" or "eQuote").
 - l) Change, update, copy and delete a proposed order including the individual systems or items of a proposed order.
 - m) Ability to add notes or special instructions
 - n) Allow any authorized user to e-mail a proposed order to any e-mail address.
 - o) Allow any authorized user to import or otherwise insert into their orders a proposed order created by a different user.



- p) The ability for the State to generate predefined reports from the Web catalog database as needed.
 - q) Allow any authorized user to initiate asset recovery services as described in Appendix 1.0. F Current SOM Asset Recovery Services.
 - r) Allow authorized requestors to change a shopping cart into an order.
 - s) Search, browse, review order status and details – including proposed orders.
 - t) Provide the option for email notification of order confirmation and order status – including:
 - confirmation of order placement on the Website
 - confirmation of acceptance of a valid order - this notification shall include an estimated shipping date(s).
 - notice of shipment of the order – this should include the tracking number of the shipper (FedEx, UPS, etc.)
 - u) E-mail notification shall provide space for multiple e-mail notification addresses
- 8) Approval of all product updates to the catalog is the responsibility of the MDIT Catalog Administrator and the Contractor will be handle product updates in the following manner:
- a) Any price decrease changes to products currently in the Product Web Catalog will be updated daily and without prior approval by the MDIT Catalog Administrator.
 - b) Upon notification to the MDIT Catalog Administrator, any products made end of life by a manufacturer and without replacement product will be removed from the catalog by the Contractor. Warranty and maintenance services will not be affected by removal of the product from the catalog.
- 9) The Contractor is responsible for providing, as a minimum, nightly batch processing of catalog changes from manufacturer feeds providing real-time products and pricing updates.
- 10) Contractor, promptly upon commercial announcement of new components that can be technically and economically substituted or added for/to items listed in the current Product Web Catalog, shall offer said items for addition or substitution to the Product Web Catalog. These item(s) may be accepted at the option of the State, provided at least equivalent performance or significantly enhanced performance at no additional cost per unit.

1.0.6 ORDER PROCESS

ORDER PROCESSING

Upon receipt of an approved order by fax or any other approved means by the State /MiDEAL member, the order process will fully validate the order to make sure that each product is still valid and that each price is correct.

- If the product is valid but the catalog price is lower than the price quoted on the original order, the lower price will be substituted.
- If the catalog price is higher than an active quoted price, the quoted price will be applied to the order.

After the order is validated, the order process will send an electronic acknowledgement to the original requester(s).

ORDER STATUS

The procurement solution will provide the State with the ability to quickly and easily determine the status of any order at any time. The system will automatically generate email notifications to multiple e-mail addresses when the Contractor accepts a user's order.

The system will automatically generate e-mail notifications to multiple e-mail addresses when a user's order changes status. The e-mails can be generated at multiple points in the process and the Contractor will customize them to meet the needs of the State. The information will also be available to the State through the Website as well.

**ORDER TRACKING**

Contractor will provide an order tracking process that allows authorized individuals to quickly and conveniently track orders without having to navigate among multiple systems. It will provide for ongoing automated communication from order entry through the delivery of the product. Each order in the process will be classified as pending, back-ordered and/or shipped. Once an order has been shipped, authorized individuals will be able to click on the order, see the quantity that was shipped and all of the tracking information associated with each line shipped.

For major carriers, authorized individuals can click on the tracking number and the system will punch out to the appropriate carrier's shipment tracking site and display the current tracking information.

Contractor must provide at a minimum:

- Track order status easily on the portal page
- Track requisition status through approval process as a future goal
- Track orders and promise dates
- Change or cancel orders for designated staff
- View complete order history
- E-mail alerts to keep users informed
- Access complete online returns process

ORDERING – OFFLINE

The State requires an offline ordering capability in case of a disaster. The State must be able to mail or fax the order form to the Contractor. The remainder of the ordering process as described in this contract should remain in effect when possible.

Purchase Order Guidelines

In order for IKON to accept a purchase order from a customer, it MUST have the following items on it.

- Contact name
- Phone number and /or email address (For IKON to call if IKON has a problem processing the purchase order)
- PO NUMBER (If you are using a blanket purchase order number, you must include a release number)
- Bill to
- Ship to (Cannot be a P.O. Box)
- Part number
- Description
- Price
- Quantity
- A quote number or equivalent
- Authorized signature
- IKON cannot accept a purchase order from the State an IKON logo on it. You can attach the quote from IKON, but the actual PO needs to be unique to your organization.

1.0.7 SUBSTITUTIONS

Contractor must offer an equivalent or better substitute at or below the original price, with the State's permission. The offering being substituted must be from the same manufacturer as the product that is discontinued or unavailable.

Substitutions may be made in the following circumstances:

- The equipment is not available because the manufacturer has discontinued its production. This particular part number has been dropped.



- The equipment is not available due to a documented national constraint or backlog experienced throughout the marketplace. This does not simply mean a particular re-seller is having trouble getting a product through its usual distributor.

Contractor must provide the State with written documentation substantiating the need for substitution and that the requirements are met by the product being substituted. The State will review the information submitted and determine in its sole discretion whether substitution is acceptable.

1.0.8 DELIVERY

The Contractor must deliver the products as listed on the Product Web Catalog. Contractor shall provide prepaid delivery, FOB (the delivery destination specified in the Purchase Order) to any State eligible customer located within the State's geographic boundaries. Unless otherwise specified within an individual order, the following shall be applicable to all orders issued under this Contract.

(a) SHIPMENT RESPONSIBILITIES - Services performed under this contract shall be delivered "F.O.B. Destination, Government Premises."

(b) DELIVERY LOCATIONS - Specific locations will be provided by the State or upon issuance of individual purchase orders.

FOB Destination as used in this contract: The term FOB destination shall mean delivered and accepted at an identified agency destination receiving site, with all charges for transportation paid by the Contractor. These charges are to be built into the price of each item. **If inside delivery or moving of equipment is required, these charges can be quoted at the time of purchase and added to the price of the product.**

STANDARD DELIVERY

Product Delivery: The Contractor must deliver the product(s) as listed on the Product Web Catalog within ten (10) business days of receipt of valid Purchase Order, unless the Purchase Order specifies a longer timeframe for delivery. Elapsed delivery time will be measured from the time an order is accepted by the Contractor to the time product is delivered to the site identified in the purchase order.

All Products: The Contractor will send e-mail notifications to the State delivery contact e-mail address, the purchase order contact email address and alternative contact e-mail on the purchase order, concerning shipment and expected delivery dates. The State will use this information to enable staff to schedule installation in advance of equipment receipt. E-mail notification will also be used to schedule receiving functions at the State's receiving locations.

All items shall be delivered within the timeframe(s) stated on a purchase order. (The State has defined dock delivery times in many locations.)

The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the State. Any losses resulting from the Contractor's failure to deliver the product to authorized personnel shall be borne exclusively by the Contractor.

Elapsed delivery time will be measured from the time an order is accepted by the Contractor to the time product is received by the receiving staff identified in the purchase order.

Contractor shall identify all special packaging, handling, storage and transportation requirements that would impact the safe and secure handling/storage of the deliverable items, including, but not limited to: weight, volume, stacking considerations, temperature, humidity, altitude, shock and vibration parameters.

Contractor must provide corresponding operating manuals; software licenses, as ordered; media; and setup guides, unless otherwise agreed to by the State.

**EXPEDITED DELIVERY**

The State may submit rush orders via facsimile or any other means to the Contractor up until a 2:00 P.M. Eastern Standard Daylight Time cut-off. The orders will be placed by MDIT Procurement via facsimile or any other means at the sole election of MDIT and delivered either Overnight or Second Day. The State will pay the Expedited Shipping fees. The contractor will make every attempt to minimize the expedited charges to the State of Michigan.

.If expedited shipping is required by the State, additional charges may apply for:

- Standard Overnight (delivery by 3:00 PM the next day)
- Priority Overnight (delivery by 10:30 AM the next business day)
- Saturday Delivery (delivery by 12:00 PM)

All expedited delivery charges should be included in the quote and described as such.

Expedited delivery that occurs as a result of the Contractor's shipping error will be free of charge.

SHIPMENT NOTIFICATION

The Contractor will send e-mail notifications to multiple State e-mail addresses concerning shipment and expected delivery dates. The State will use this information to enable MDIT teams to schedule installation in advance of equipment receipt. E-mail notification will also be used to schedule receiving functions at the State's receiving locations.

1.0.9 ACCEPTANCE CRITERIA FOR DELIVERY**NO INSTALLATION**

Installation is not required, unless notated on the purchase order.

Products will be considered accepted when delivery of product is made to the specified delivery address AND complete packing slips with applicable serial numbers are provided and signed for. The Contractor is responsible to ensure that copies of the signed initial receiving documents are forwarded to the State before payment will be authorized.

When IKON installation services are not purchased, the product will be considered accepted when delivery of the product is made to the specified delivery address with complete packing slips that include both model number(s) and serial number(s) (where applicable). Both of these conditions must be met for IKON to invoice for the equipment and for payment authorization to occur.

If equipment is discovered to be defective or failing to conform to the specifications, it may be rejected upon initial inspection or within 20 business days of receipt, if the defects contained in the equipment or non-compliance with the specification are not reasonably ascertainable upon initial inspection.

OPTIONAL DESKSIDE INSTALLATION

Contractor shall provide **optional** installation services staff as needed by MDIT. When the P.O. is issued, MDIT will have the option to include installation services on the P.O. Services will be on a case-by-case basis based on upon MDIT Field Services availability. Installation services will include connecting the device to the network and loading the appropriate drivers so that the clients can fully utilize the device after installation is complete. The installation staff should have sufficient technical skills to install the appropriate drivers, extensive knowledge of input/output devices, and basic trouble shooting skills. The intent is that the clients will be able to print/scan/fax upon completion of the installation.

If installation is required, the MDIT will be the initiating point for deskside installation services. Acceptance of the equipment will occur when the:

- Equipment has operated for fourteen (14) consecutive days with out any problems.
- Quality and level of operation is consistent with the published specifications for the system.
- System documentation including user and system manuals is complete and on file at the State.



It will be the responsibility of the State to communicate any installation or hardware issues to the contractor that may impact payment prior to the end of the 14 day installation process.

PACKAGE LABELS AND PACKING SLIPS

1.0.10 BAR-CODING

The Contractor must provide the following information on the vertical face of packages containing IT assets in a standard bar code format:

- State of Michigan Purchase Order Number
- Model Number(s)
- Serial Number(s)

The data for each field must be in standard print beside/above/below each bar code.

1.0.11 PACKING SLIP

Contractor shall provide a packing slip for each physical shipment. The packing slip shall display:

- a. State of Michigan, Purchase Order Number or MIDEAL P.O. as appropriate
- b. Purchaser's Name (Contact Name)
- c. Ship to address
- d. Special Shipping information (time frames, delivery information etc).
- e. Order Date
- f. Shipped from (Vendor) information
- g. Shipping Carriers Name
- h. Carriers Tracking Number
- i. Date Shipped
- j. Total Number of Packages
- k. Serial Number if applicable
- l. Item / Part Number
- m. Line item description from the Purchase Order
- n. Quantity ordered
- o. Quantity included in shipment and whether Contractor considers the delivered item to be a partial or full satisfaction of the requirement

1.0.12 RFID TAGS

Contractor will ensure that all shipped packages are supplied with a passive RFID tags affixed to the case (shipping and exterior container).

For all other products, the RFID tag must be an adhesive backed multi use tag able to be removed easily from the packaging to be affixed to the asset by SOM staff when required.

Contractor will ensure that:

- a. the data encoded on each passive RFID tag are unique;
- b. each passive tag is readable at the time of shipment; and
- c. the passive tag is affixed at the appropriate location on the specific level of package or IT asset.

The passive RFID tags are required to be Ultra High Frequency (850 MHz to 950 MHz and 2.4 GHz to 2.5 GHz – UHF) as this offers the longest read ranges and high reading speeds. Passive RFID tags must be EPC Gen 2 protocol compliant and meet ETSI and FCC RF certifications as well as any regional government regulations on radio frequency use.



The data required on the RFID chip for each asset must be in fields in the following order:

Vendor Identifier	SOM Purchase Order Number	SOM Purchase Order Date	Model Number	Serial Number
(Vendor specified)	11 characters	10 characters	(Vendor specified)	(Vendor specified)

Serial Number — uniquely identifies IT assets being deployed to the State. It is the responsibility of the Contractor to ensure that this is a unique number across all shipments to the State. The “serial number” required in the RFID tag does refer to the serial number of the product being shipped.

Tag Placement – the Passive RFID tags must be attached or affixed to the shipping container for each IT asset unless otherwise specified above. The RFID tag may be integrated with the Bar Coded label (RFID-enabled labels), or may be independent (where a separate bar coded label would also be necessary).

- All labels and RFID tags should be affixed at a suitable location where there is a minimum risk of damage and highest potential for successful interrogation (RF read or laser scan).
- The RFID-enabled label should not be placed over a seam nor should sealing tape or bands be placed over the label in a manner that interferes with the scanning of the label bar codes or reading the transponder data.
- The RFID-enabled label should not be placed in a manner that overlaps any other existing RF transponder. There should be at least a 10-cm separation.
- If RFID-enabled labels are not used, attach a separate passive RFID tag and a separate bar code label(s). The passive RFID tag should be placed on the identification-marked side and on a vertical face, allowing a minimum of 5 cm from all edges where possible.

Case and Pallet Tagging – Cases (shipping and exterior containers) and pallets (palletized unit loads) of IT assets will be tagged at the point of origin (manufacturer/vendor) with passive RFID tags. For case tagging (where more than one unit is enclosed), the RFID label should be placed on the center of the box allowing a minimum of 5 cm from all edges where possible.

1.0.13 RETURN POLICY

The Contractor will provide a hardware return policy that protects the State from any financial obligation and/or costs arising from the delivery of incorrect or wrong and damaged products.

- All equipment dead on arrivals (DOAs) will be replaced with new equipment and treated as a Second Day Rush order delivery at no additional cost to the State, or at the State’s option, the Contractor will repair the equipment per the terms of the equipment warranty if still in warranty status.
- The Contractor will pay all shipping and handling costs for mistakes made by the vendor or its suppliers. If a mistake has been made by the State, the State will only pay for shipping and handling costs to return the product.
- Contractor shall refund to the State within 20 business days of receipt of the returned Hardware, the purchase price of the returned Hardware, including shipping costs.
- No restocking fees will be charged to the State for returns.
- Products failing to meet the State’s P.O. shall be considered non-conforming goods and subject to return to the Contractor for replacement at the State’s option, and at the Contractor’s expense.
 - When a product fails to meet requirements, it must be removed by the Contractor from State premises within ten business days of notification of rejection by State.
 - Upon rejection notification, risk of loss of the rejected or non-conforming product shall remain with the Contractor.
 - Rejected items not removed by the Contractor within ten business days of notification shall be regarded as abandoned by the Contractor, and the State shall have the right to dispose of the items as its own property.
 - Contractor shall promptly reimburse the State for any and all costs and expenses incurred in storage or effecting removal or disposition.



6. It is the State of Michigan's business practice to write a code on each package it receives at the time of receipt. This will not incur any additional fees or issues if products are returned.

1.0.14 ASSET MANAGEMENT

The Contractor is responsible to transmit a file that interfaces with the State's asset management system, Information Technology Asset Management (ITAM), for asset reporting at no additional cost to the State. See Appendix 1.0.D for ITAM interface specifications.

1.0.15 ITRAC

The State has a web application used for reporting and tracking IT commodity purchases. Contractor must provide a file that contains the common commodities that are ordered by the State. The following items are required:

- 1) The file must be a text file with data elements delimited by tab characters.
- 2) Incremental updates must be received daily (Monday-Friday 6 PM EST)
- 3) A full load file must be received weekly (Friday 6 PM EST)
- 4) The file must be transferred to the Data Exchange Gateway using FTP.
- 5) The length of "Description" field cannot exceed 255 characters and must support the addition of a 4-character identification code used to match commonly purchased items. Example: "E01-"
- 6) The catalog file structure or format may be changed as a new design is implemented in the ITRAC system.
- 7) The current data elements are:
 - OPERATION_CODE
 - ITEM_NUMBER
 - MANUFACTURER
 - DESCRIPTION
 - CATEGORY
 - SKU
 - PRICE
 - AGENCY_APPROVED

The State would like to move to a more direct catalog interface such as a web service interface so that ITRAC can access the catalog directly and pull extracts on demand.

1.0.16 PRODUCT RECALL NOTIFICATIONS

Contractor must provide prompt notice to the MDIT Catalog Administrator and Contract Administrator in writing of any product recall within three business days or less.

1.0.17 REQUEST TO ADD (RTA) PROCESS

The RTA process is a process by which MDIT is able to submit a request to the Contractor to have input and output management devices added to the Contract and/or Product Web Catalog.

MDIT is the process owner of the RTA process for this contract. All requests will be initially sent or routed to MDIT Catalog Administrator for processing. MDIT evaluates the request and will send those approved RTA requests and associated documentation to the Contractor for quoting. All RTA's, for the executive branch, will be submitted by the MDIT Catalog Administrator.

1. Requests for additions, deletions, exceptions and/or revisions may be generated by the MDIT Catalog Administrator.
2. The State may initiate a request to add a product by providing functional requirements for the product to the Contractor.



3. If the State seeks to add a named product to the catalog, a quote will be requested from Contractor selected to provide services under this contract.
4. Contractor must respond within four (4)-business days providing a price quote for submitted request. The State and the Contractor will mutually agree to extend the time for large and/or complex requests. If the price quote or offering is not acceptable to the MDIT Catalog Administrator, the State may purchase outside the Contract.
5. Upon receiving the Contractor's recommendation, the MDIT Catalog Administrator shall make the final decision to purchase. Approval will be to add the product, purchase as a one-time buy or allow the State to purchase outside of the Contract. In the case of a catalog addition, the updated information shall be included in the nightly batch processing of catalog changes.
6. Before any item can be added to the Contract, the product description and current pricing must be provided by the vendor for inclusion in various SOM solutions.
7. Contractor will work with the State to develop a standard grid to be used by the State to analyze the products identified by the Contractor as meeting the desired functionality.
8. The product set will be administered by the Contractor and the MDIT Catalog Administrator. The Product Web Catalog will serve as the contractual listing and representation of those products. Additions, deletions and/or revisions to that product set will require the approval of the MDIT Catalog Administrator.
9. Any new product(s) to be added to the Product Web Catalog that is not a direct replacement of a product currently in the catalog must follow the Request to Add procedure. At a minimum, the Contractor must provide the following information to the MDIT Catalog Administrator:
 - Manufacturer Name
 - Product Name and Description
 - Contractor Part Number
 - Manufacturer Part Number, if different
 - Contractor Cost Basis
 - Markup
 - Contract Price

1.0.18 PROCESS FOR OBTAINING QUOTES

Contractor shall provide:

1. A Quote Desk and order process should be located in the United States and available through a toll free number and on-line presence. The State would prefer a Michigan location.
 - Staffed Monday through Friday from 8:00 to 5:00 pm EDT to assist the State with orders for complex products, nonstandard items or user support as needed.
 - Quotes must also be available after normal State Business Hours or on State Holidays in the event the State experiences an emergency situation. A process must be defined for obtaining these by the Contractor.
 - Staffed with Contractor personnel who have experience in providing such service.
2. 80% of the time, quotation requests received by the Contractor before noon should be returned to the State by the end of the next business day and in all cases not to exceed four (4) business days of the submitted request; this SLA will be measured quarterly.
3. All quotes will be valid for a period of twenty (20) business days from the date the quote is received by the State of Michigan and are subject to the following:
 - Quotes will be subject to change if any quoted component becomes unavailable.
 - For any quote request, where the manufacturer requires the State to sign a licensing agreement, the Contractor must furnish the licensing agreement as an attachment to the quote.
 - All requests for quotes will be made by authorized MDIT/MiDEAL personnel.

**1.0.19 ENVIRONMENTAL (GREEN) REQUIREMENTS**

1. Contractor shall offer products and services meeting the State's directive for energy efficiency, recycling, environmentally-sound disposal and low-toxicity materials. (See Executive Directive 2007-22 at <http://www.michigan.gov/gov/0,1607,7-168-36898-180298--,00.html>)
2. Products, where applicable, shall meet U.S. Environmental Protection Agency Energy Star Program 4.0 and EPEAT Silver specifications. For the Energy Star and EPEAT program product specifications see the Energy Star Website at <http://www.energystar.gov> and www.epeat.net.
3. The State of Michigan requires that the Contractor's products be Energy Star compliant, be so labeled, and the Contractor document the energy savings the State can expect to realize per year, by implementing suggested devices. The devices must also minimize the amount of overhead needed during operation including heat, air conditioning, consumables, as well as having an option for reduced toner used on a per document basis.
4. All devices must minimize wasted paper during the course of standard use, and function properly when using recycled paper products. For purchased devices, the use of recycled toner and recycled paper products will not void the manufacturer's warranty or compromise the functionality. **The State also requires that the devices utilize high yield toners when available, and that the Contractor recycle all toner bottles or cartridges at no additional charge to the State.**
5. Power management features shall be activated on all devices and be set to the most aggressive standards possible, where applicable.
6. Contractor shall identify and offer power-state management tools where the cost of the tools may be recovered within months of their implementation through savings in energy costs.
7. All devices that are able to print duplex must be set by default to do so.
8. Contractor shall identify and offer a disposal program that ensures maximum value is obtained for old equipment. Such programs may include recycling of the devices through refurbishment, redeploying the equipment in another jurisdiction and/or recycling of parts or materials of the equipment. This program must meet zero landfill requirements and follow State of Michigan program guidelines. See Appendix 1.0.F Current SOM Asset Recovery Service.
9. Contractors must have a take back/recycling program that addresses each of the following:
 - a. date the program is or will be in operation,
 - b. type of Equipment and/or Peripherals being taken back or proposed to be taken back,
 - c. volume of Equipment being recycled/disposed or proposed,
 - d. certificates of lawful disposal,
 - e. disk storage cleaning,
 - f. take back charges or credits by type of Equipment,
 - g. compliance with state, federal or other regulatory authorities regarding disposal of electronic equipment.
 - h. Guarantee of zero landfill.
10. Contractors should have an environmental improvement program that focuses on each of the following areas:
 - a. reduction/minimization/avoidance of the use of toxic and hazardous constituents (cadmium, chromium, mercury, and/or lead);
 - b. compliance with international directives such as the European Union's Directive "Restriction of Hazardous Substances", reduction of chlorinated plastics (PVC) and brominated flame retardants;
 - c. certification by independent third party eco-labeling programs (TCO, Blue Angel, and Nordic Swan);
 - i. Contractors must specifically identify each equipment or peripheral model number that has been certified and the type of certification obtained. In addition, they must list the model numbers of units being submitted for certification as well a schedule for any remaining units.
 - ii. Contractors must describe how certified units are labelled and identified as such on the Website.



- d. the migration to the use of recyclable, non-toxic packaging.
11. Suggested Manufacturers should offer a free packaging take back program where the packaging material can be collected/returned to manufacturer or recycler for reuse or recycling at the State's option. As an option, Contractor may propose bulk packaging such as shipping an order in one pallet without individual packaging of equipment.
12. Manufacturers must provide a publicly available written corporate environmental policy consistent with the all aspects of the policy requirements laid out in the ISO 14001 standard.

"ISO 14001" is the conformance standard within the family of ISO 14000 documents developed by the International Organization for Standardization (ISO) in Geneva, Switzerland. Similar in structure to the ISO 9000 quality management system standard, ISO 14001 outlines key requirements companies should comply with in order to operate in an environmentally responsible manner. Utilizing ISO 14001, companies can merge environmental programs into one coherent system to efficiently manage all environmental activities. In short, ISO 14001 provides organizations with a way to demonstrate to their customers that their environmental processes and impact are effectively managed, continually improving, and part of the corporate management system. For more information, please refer to www.iso.org.

1.0.20 STATEMENT OF WORK PROCESS

Any services listed herein, with the exception of installation and standard Warranty/Maintenance services, will be secured through a separate Statement of Work.

Services purchased from this contract must be related to the installation, integration or implementation of products purchased from this contract and of a temporary nature of six (6) months or less. The expectation is that service costs will be 50% or less of the total project/product cost. Both the MiPRINT Contract Administrator and DMB will approve exceptions.

MDIT will issue the completed Statement of Work to the Contractor. The Contractor will develop and propose in writing a solution, including price that shall be valid for 30 business days. The signed proposed solution will be submitted to MDIT in ten (10) business days from request, reviewed and, if acceptable, MDIT will submit it to the MDIT client for signature.

Unless other arrangements have been mutually agreed upon between MDIT and the Contractor, the Contractor shall provide all materials, computer support services and equipment necessary to complete each approved Statement of Work.

1.0.21 STATE ADMINISTRATIVE FEE

The Contractor must collect an Administrative Fee on the commodity sales transacted under this Contract. The Contractor must remit the Administrative Fee in U.S. dollars within thirty (30) days after the end of the quarterly sales reporting period. The Administrative Fee equals one percent (1%) of the total quarterly commodity sales reported. Contractor must include the Administrative Fee in their prices.

The Contractor must pay the Administrative Fee collected by issuing a check. To ensure the payment is credited properly, the Contractor must identify the check as an "Administrative Fee" and include the applicable State BPO number, report amount(s), and reporting period covered.

Contractor must forward one check payable to Treasurer, State of Michigan, to the following address:

Department of Management and Budget
Financial Services – Cashier Unit
Lewis Cass Building
320 South Walnut Street
P.O. Box 30681
Lansing, MI 48909



1.0.22 MIDEAL PROGRAM FEE

The MiDEAL Program - Michigan Delivering Extended Agreements Locally - extends a wide variety of state contracts to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community or junior college in Michigan.

1. Contractor must make available all commodities listed in the Product Web Catalog for local government units within Michigan that elect, using MiDEAL, to purchase under this contract. MiDEAL participants will place orders and be billed directly.
2. Contractor will provide the State with an Administrative Fee of 1% of the total quarterly commodity sales transacted under the MiDEAL program, which will be issued quarterly to the State in the form of a check based on transactions during the quarter.
3. The Contractor must remit the Administrative Fee in U.S. dollars within thirty (30) calendar days after the end of the quarterly sales reporting period.
4. Contractor must include the Administrative Fee in their prices to MiDEAL members.
5. State pricing will be extended to MiDEAL.
6. All purchase orders will be submitted by, and invoices will be billed to, the authorized MiDEAL member on a direct and individual basis.
7. The MiDEAL Portal will be made available at the contract signing.

1.0.23 ACCESSIBILITY – COMPLIANCE WITH SECTION 508

The State of Michigan conforms with federal laws and policies relating to the Rehabilitation Act, Section 508 Electronic and Information Technology Accessibility Standards. Section 508 addresses various means of disseminating information, including computers, software, and electronic office equipment.

Contractor warrants that the Hardware offered will meet the State's accessibility standards.

1.0.24 AUDITING

Vendors must provide for an audit of the web pricing and invoicing to insure Contract compliance. Contractor will conduct, at its own expense, an annual audit to verify pricing. The auditing firm or independent third party will be selected by mutual agreement between MDIT and the Contractor. The MiPRINT Contract Administrator will identify the items to be audited. If it is determined that items were charged at more than the agreed pricing, Contractor will refund or issue credit to the State for the overcharges. Contractor will also identify and implement procedures to avoid further overcharges. Bidders shall propose a schedule for such audits and describe how such audits will be conducted.

1.0.25 CONTRACTOR STAFF, ROLES & RESPONSIBILITIES

The Contractor is responsible for:

- Providing industry knowledgeable advice in the area of management of input and output devices for the Department of Information Technology.
- The Contractor will work with the State to identify emerging technologies as appropriate. The information technology product(s) will be added to the contract through the Request to Add (RTA) process.
- Maintain current contract pricing for all products on the contract on a daily basis within the Product Web Catalog.
- Ensure that the technology and prices are current and competitive. The pricing arrangement should allow the State of Michigan to take advantage of price reductions.
- Monitor and actively resolve issues with delivery dates, quality of products/services, mean time between failure after repairs, billing/invoicing, and other service level agreements.
- The Contractor shall immediately notify the MiPRINT Contract Administrator when products are constrained or otherwise unavailable so that the MiPRINT Contract Administrator can work with the Contractor to find an appropriate means to resolve these issues.
- Ensure the product invoicing is correct and based upon State of Michigan current price at the time of the order.
- Contractor shall collect administrative fees as described in the State Administrative Fee and MiDEAL Administrative fee sections.



- The Contractor shall have sufficient support staff located in Michigan to provide contracted products and services necessary to meet the requirements of this Contract. Key personnel must be available to meet in Lansing, Michigan, on an as needed basis during normal business hours to resolve issues related to services. The State will **not** provide such a site to the Contractor. In addition, the State will **not** reimburse for travel or expenses.
- Contractor must provide an after-hours method of contact for emergency or mission critical operations support.
- The Contractor, its subcontractors and subcontracted staff shall comply with all security standards and the security access requirements for individual State facilities.
- The Contractor shall maintain an electronic inventory of hardware purchased off this Contract. The data is the property of the State and will be available to the State upon request or termination/expiration of the Contract. The following is the minimum data required:
 - State Purchase Order Number
 - Ship to Data (from the Purchase Order)
 - Bill to Data (from the Purchase Order)
 - Item Description (include make, model, type and version)
 - Serial Number
 - Order Date
 - Date Shipped
 - State of Michigan (SOM) price
 - Agency the Order was placed for
- The Contractor shall have a process in place with the manufacturers whereby the State can directly contact the OEM's so that the State may uniquely configure hardware, obtain technical or warranty support, obtain technical guidance or expertise, and obtain information for the basis of the quotes as defined in Section 1.0.5.18 QUOTES in this document.
- **Technical Support**
The Contractor shall have a process in place where the State and MiDEAL authorized personnel can obtain technical support for all products and services on this contract. (example: toll free technical support lines). Traditionally these companies offer specific telephone support services to companies that purchase hardware. These services will usually involve technical support questions about a specific configuration requirement or technical support that will be in place that will assist in the support of the hardware purchased from this contract.

The State has identified the following as **Key Personnel** for this project:

- Single Point of Contact (SPOC)
- Contract Program Manager (CPM)
- **Single Point of Contact (SPOC)**
The Contractor will identify a SPOC for MDIT/MiDEAL authorized personnel to call to obtain order and delivery statuses and to resolve issues (such as configurations, price, returns, inquiries, delivery status questions, etc.), billing/invoicing issues, warranty work, technical advice and remedial maintenance.

The State reserves the right to require a change in the current SPOC if the assigned SPOC is not, in the opinion of the State, adequately serving the needs of the State.

Access to the support will be provided through a toll free line to the State and MiDEAL Members. The toll free line will be available after business hours for warranty and maintenance agreements requiring after business hour support up to 24x7x365 coverage. The Web portal will provide the ability to access 24x7x365 supply/service orders and equipment orders. IKON shall negotiate 24x7x365 coverage on a machine by machine basis.



The SPOC is considered Key Personnel to the Contract and must have a minimum of 3 years of experience in supporting activities related to this position. The SPOC qualifications should include supporting and/or managing input/output management devices; developing and implementing procedures for problem identification reporting, tracking and resolution pertaining to orders, product delivery and warranty services as defined in this contract.

- **Contract Program Manager (CPM)**

For this contract, designate a **Contract Program Manager (CPM)** to oversee all aspects of the contract including the management of all vendor personnel. The Contract Program Manager is considered to be Key Personnel to the Contract and must have a minimum of 3 years of experience in contract/project management similar to a contract of this size and scope and also be capable of addressing the State's diverse needs. Other desirable qualifications include supporting and/or managing computing; and developing and implementing procedures for problem identification reporting, tracking and resolution pertaining to orders, product delivery and warranty services as defined in this document. The CPM will work closely with the designated personnel from the State. The CPM will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State. The CPM to oversee all aspects of the statewide contract for the commodity awarded, including the management of all customer representatives and personnel identified in Contractor's proposal. The CPM's responsibilities include, at a minimum:

- Manage Contractor's subcontractors
- Develop the initial project plan and schedule, and update as needed for the contract implementation and administration of the contract.
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day activities of the contract team
- Assess and report project feedback and status
- Escalate issues, risks, and other concerns
- Review all deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare documents and materials

- **Organizational Chart**

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

1.0.26 ROLES & RESPONSIBILITIES OF THE STATE

State shall assign a MiPRINT Contract Administrator or designee as a single point of contact for all communications. The MiPRINT Contract Administrator or designee shall:

- Serve as the Point of Contact between the Contract Program Manager and all other individuals participating in this contract.
- With the Contract Program Manager, administer Project Change Control in accordance with the Agreement and this SOW.
- Chair the monthly Joint Operations Meeting with key Contractor staff.
- Obtain and provide information, data, decisions and approvals as it relates to the implementation of MiPRINT.
- Be responsible for SOM issue management
- Provide subject matter experts as needed to achieve goals and schedules.
- Review and approve MiPRINT Product Web Catalog price increases and new product lines.
- Review and approve Contract product and support offerings including service levels, delivery times, performance metrics, cost basis and price.
- Identify points of contact and advocates for MDIT clients.



1.0.27 PROJECT AND IMPLEMENTATION PLAN

The objective of this task is to establish a framework for project communications, reporting, procedural and contractual activity. The Contractor shall provide sufficient staff that shall have explicit responsibility for the administration of this Contract along with responsibility for planning all Contract transition start up activities, day-to-day Contract processes, and the subsequent transitional activities at the end of this Contract.

Deliverable, due five (5)-business days after Contract execution, includes the following work products:

- Contract goals and objectives of Transition plan.
- Responsibility matrix
- Communication Plan
- Assemble and define team to define web catalog requirements
- Draft Risk assessment and mitigation plan

Deliverable, due 20 business days after contract execution, includes the following work products (The State will assist the Contractor on these products):

- Detailed work plan
- Resource Requirements
- Risk assessment and mitigation plan
- Present design for the web catalog

Contract Implementation

The project plan to implement the contract should include, at the minimum, the following tasks:

- Communication Plan for Transition for State and Contractor
 - o MDIT
 - o Contractor
 - o MiDEAL Partners
- Define Resource requirements for transition for State and Contractor
 - o Subject Matter Experts
 - o Project Transition Team
- Single Point of Contact (SPOC) requirements
 - o Coverage requirements
 - o IVR Specifications for SPOC
 - o Communication requirements for SPOC
- Web Catalog Requirements
 - o Web Catalog Security
 - o Web Catalog Views
 - o Web Catalog Design (Customization will follow State of Michigan Web Standards for “look and feel”).
 - o Testing Plan
 - o Implementation Plan - Load Data into MiPRINT Product Web Catalog
 - o Training
- Procurement Processes
 - o Order Approval
 - o Order Status
 - o Order Processing
 - o Return Processes
 - o Invoice Process
- Define Request to Add (RTA) process
- Define Quoting Process
- Define Statement of Work Process
- Define Reporting Requirements
- Service Level Agreements (SLA)
- Define Escalation Process for Service/warranty issues and Contract issues
- Define Delivery Process (Standard and Expedited)



- o Locations
 - o Procedures
- Define Packaging Requirements
 - o Hardware
- Define Joint Operations Meeting(s)
- Define process for Technical Support Assistance (1-800 numbers and process for technical Support from OEM's).
- Define process for Security Background Checks of Contractor staff.
- Define Training Requirements
 - o Web Catalog
 - o SPOC
 - o Procurement Process Changes
- Schedule Project Meetings

Steady State (Day to Day Administration) Plan

Upon contract signing, the Contractor would be required to provide a "Steady State" project plan for administering the contract on a day to day basis.

- Communication Plan
 - o MDIT
 - o Contractor
 - o MiDEAL Partners
- Define Resource requirements for on-going administration
 - o Subject Matter Experts
 - o Contract Administration Team
- Web Catalog Maintenance
 - o Web Catalog Security
 - o Web Catalog Views
- Reporting Process
- Management of Service Level Agreements (SLA)
- Contract Quality Control Process
- Contract Change Control Process
- Pricing Review Process
- Schedule Project Meetings

1.0.28 CONTINUOUS IMPROVEMENT PLANS

1.0.28.1 Updates and Reviews

The Contractor shall promptly update all written plans, procedures, web catalog and schedules to reflect changes to the Contract. In addition, at least four times each year at the Joint Operations meeting during the term of the Contract, senior representatives of the Contractor shall meet with the Purchasing Operations, MiPRINT Contract Administrator and other representatives of the State, to review changes implemented during the previous quarter and discuss possible changes to be implemented during the coming quarter. At such meetings, the Contractor should present recommendations to the State on the direction of MiPRINT that the Contractor believes would significantly reduce costs, improve service or enhance operability or reliability.

1.0.28.2 Customer Satisfaction Survey

At least once every twelve (12) months during the term of the Contract, the Contractor shall conduct a Customer Satisfaction Survey. The survey shall include selected representatives associated with the day-to-day activities from State of Michigan Agencies and key senior management. The MiPRINT Contract Administrator will determine the final list of participants. The Contract Program Manager will work with the MiPRINT Contract Administrator to determine the appropriate timing for future surveys.

The results of the Annual Customer Satisfaction Survey will be used to improve the overall performance of the Contract. An action plan will be jointly developed and approved within forty (40) business days after



the results of the survey have been provided to the MiPRINT Contract Administrator and the Contract Program Manager.

1.0.28.3 New Project Initiatives

The State and Contractor agree that from time-to-time it will be necessary to take corrective action or implement process improvement, both proactively and reactively, to improve the delivery and quality of Service to the State or to meet the changing business needs of the Contractor. These corrective actions and/or process improvements may be in response to the availability of new and emerging technologies, issues arising from the normal, ongoing delivery of services under the Contract, action plans as a result of the annual Customer Satisfaction Survey, or fundamental changes in how the State delivers its services.

1.0.29 TRANSITION PLAN AT THE END OF THE CONTRACT

In connection with the normal expiration of this Contract on the Expiration Date or termination as defined under Article 2 of the Contract, the Contractor will comply with the State's reasonable requests to cause the orderly transition and migration from the Contractor to the State (or to a third party services provider undertaking, on behalf of the State, to provide the Services (the "Third Party Provider")) of all Services then being performed by the Contractor (the "Transition"). The Transition will be provided for a reasonable period of time, which in no event will exceed six months. The State will cooperate in good faith with the Contractor in connection with the Contractor's obligations under Article 2, Section 2.170 Transition Responsibilities in the Terms and Conditions and will perform its obligations under the Transition Plan described below. If the Transition extends beyond the date of expiration of this Contract, the provisions of this Contract will remain in effect for the duration of the Transition and will apply to all transition assistance services provided by the Contractor during such period (subject to subsection (iii) below). The Contractor will perform the following obligations (and such other obligations as may be contained in the Transition Plan) at the State's expense, unless otherwise stated below or in the Transition Plan. The State acknowledges and agrees that the Contractor will have no obligation to provide any form of Transition if the State at any time defaults in its payment obligations to the Contractor.

Transition Plan: The Contractor will work together with the State and/or a Third Party Provider to develop a transition plan (the "Transition Plan") setting forth the respective tasks to be accomplished by each Party in connection with the Transition and a schedule pursuant to which such tasks are to be completed. The Contractor will also participate in the execution of the Transition Plan by performing tasks mutually agreed upon in the development of the Transition Plan. The Contractor will provide copies of standard reports, provider and subcontractor lists, and catalog data to assist in the development and execution of the Transition Plan.

Knowledgeable Personnel: The Contractor will make available to the State or the Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to develop products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping, and invoicing equipment and services to the State.

Single Point of Contact: The Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the contract until all product and service obligations have expired.

Payment: If the Transition provided by the Contractor in the Terms and Conditions requires additional personnel or other resources in excess of those resources needed to deliver services to the State, the State under this Agreement will pay the Contractor for such additional resources using appropriate classifications and rates listed in the Product Web Catalog. Notwithstanding anything to the contrary in this Agreement, all charges to be paid by the State to the Contractor during the Transition will be paid on a monthly basis.



1.0.30 ESCALATION PROCESS

The Contractor must have a management support plan that provides for the orderly escalation of Contract related issues to the next highest level of support, including third party hardware and software resources as deemed necessary to resolve an issue. As a part of the problem escalation process, the Contractor shall have a written procedure to notify the State at regular intervals of the progress made in tracking and resolving issues. The State and the Contractor will define and improve the escalation process and the escalation metrics.

1.0.31 REPORTS

Contractor shall publish the following reports on the Product Web Catalog, or make available as identified below, and update according to the frequencies listed below:

Contractor shall comply with all reporting requirements that will be identified by the State of Michigan for the Contract period. It is expected that most of the reports will be produced and reviewed monthly. There may be exceptions, such as a daily incident report that is generated each morning. This daily report may be used to investigate the problems that occurred in the previous twenty-four (24) hours (forty-eight (48) hours over weekends and holidays).

At a minimum, Contractor shall submit to the EPM or designee a complete service report summary for all units currently in place. The reporting period starts on the date of implementation of the Contract. Reporting must be provided in an electronic format. Consistent late deliveries or non-delivery of required reports shall be considered a breach of this Contract may result in cancellation of the award and rejection of Contractor's bids or proposals in future procurements. This report shall be submitted monthly and shall contain the following minimum amount of information for all work areas implemented to date:

- Customer Name (State Agency making the purchase)
- Purchase Order #
- Order date
- Invoice #
- Invoice date
- Manufacturer Name
- Manufacturer Part # (Model #)
- Serial Number
- Location/Address
- Device Speed
- MFD (Yes/No)
- Scan (Yes/No)
- Print (Yes/No)
- Monthly Copy Volume
- Minimum Volume (if applicable)
- Install Date, if performed by IKON
- Acquisition Cost
- Accessory Part # (for each accessory)
- Accessory Description (for each accessory)
- Accessory Acquisition Cost

Reports shall be delivered to the EPM or designee no later than the 15th calendar day after receipt of the previous month.

Other report content areas may include but are not limited to standard reports such as an warranty service reports, SLA compliance report, implementation status reports, and inventory management reports as requested by MDIT.



The State reserves the right to request additional reports from Contractor at no additional cost. Contractor shall use every effort to provide such reports in a reasonable timeframe, but no later than fifteen (15) days from the time the request was submitted. These reports shall be in a form approved in advance in writing by the State.

DAILY REPORTS

Daily Shipping Report

The OEM must provide a daily shipping report that details the following information on an individual PO basis.

- SOM PO Number
- Vendor PO Number, if applicable
- Manufacturer Order Number
- Order Date
- Shipped Date
- Shipped to Contact Name, if applicable
- Shipped To Address
- Shipped To City
- Shipped To Zip Code
- Serial Number
- Model Number
- Warranty End Date
- Shipping Method
- Carrier
- Carrier Tracking Number
- Expected Delivery Date

1.0.9.2 MONTHLY REPORTS

1.0.9.2.1 Monthly Contract Updates on Prices/Products

Contractor will provide a monthly Contract update to the State as prices and products change. Any update will state changes (product additions/deletions, State price decreases, manufacturer's part numbers changes, etc.) that have occurred since the last monthly contract update and must include the following items:

- Manufacturer's part number, description, State price, type of change, and explanation.
- Manufacturer/Contractor web address for more detailed product information,
- Price for added products

1.0.9.2.2 Monthly Support Services Purchase Order Status Report

The Support Services Purchase Order Status Report will help the MIPRINT Contract Administrator monitor progress of projects and make timely changes if necessary. It shall include the Purchase Order number, project name, proposal number, start date, end date, support specialist's name, number of hours, number of hours worked, number of hours remaining, total amount, amount used, and amount remaining.

1.0.9.2.3 Previous Month Shipment Report

Each Contractor will provide an electronic excel spreadsheet containing the following information for each item acquired and shipped to the State of Michigan during the preceding month. The spreadsheet in Excel format should contain the following information:

- SOM PO Number
- Vendor PO Number, if applicable
- Manufacturer (example: HP, Lexmark, Ricoh, etc).
- Manufacturer Order Number



- Product description
- Order Date
- Ordered by Name
- Shipped Date
- Shipped to Contact Name, if applicable
- Shipped To Address
- Shipped To City
- Shipped To Zip Code
- Agency equipment purchased for information
- Hardware information
 - o Serial Number
 - o Model Number
 - o Warranty Option Purchased
 - o Extended Warranty Purchased
 - o Warranty End Date
- Shipping Method
- Carrier
- Carrier Tracking Number
- Expected Delivery Date
- Agency equipment purchased for information

1.0.9.3 QUARTERLY REPORTS

Contractor will report, within ten (10) days of the end of each quarter to MDIT, all purchases made from its contract. At a minimum, the report shall include:

- PO Number
- PO Date
- manufacturer item number,
- manufacturer name,
- product description,
- State unit price,
- Quantity
- Total Price per PO

1.0.9.4 AD-HOC REPORTS

Contractor will provide an easy to use query tool to generate electronic reports. These reports will be available on demand and free of charge to the State. At a minimum, the below fields must be included in the reports, the State will provide the report format.

- Customer Name,
- Customer Number,
- Customer PO #,
- Order #,
- Reseller Item #,
- Manufacturer Item #,
- Product Description,
- Serial Number
- Manufacturer,
- Quantity Ordered,
- Unit Price,
- Extended Price,
- Date Ordered,



- Date of Invoice,
- Ship Date,
- Quantity Shipped,
- Product Type,
- Ship To: Name, Address Line 1, Address Line 2, City, State, Zip Code

1.0.10 SERVICE LEVEL AGREEMENT

Contractor's services during the term of the contract shall be measured using the following metrics:

- a. **Response Time** - The Contractor shall respond to all communications not later than the next business day.
- b. **Quotes** received before noon, will be turned around 80% of the time within the next business day and in all cases should not exceed four (4) business days of the submitted request; this SLA will be measured quarterly.
- c. All **orders** placed to the vendor shall have a 100% Fill Rate,
- d. **Report** Timeliness and Completeness (% in 5 days of due date) – 100%
- e. **Invoice** timeliness (% within 5 days of agreed invoice receipt date) – 100%
- f. **Delivery** of product within contracted time frame after receipt of order 95% of time.
- g. Delivery of rush orders within the contracted time frame after receipt of the order 98% of the time.
- h. IKON will respond to all warranty calls placed by the MDIT technical staff in one business hour.
- i. IKON will ensure that for devices purchased within an exchange warranty that the replacement will be available within one business day.
- j. IKON will ensure that all extended on-site warranty service is completed next business day.
- k. Task Proposal response required within 10 business days after receipt of the Statement of Work at least 95% of the time.
- l. Overall Customer Satisfaction – An annual survey of users will be conducted by the Contractor to determine the level of customer service satisfaction experienced with the Contractor. The survey tool to be used shall be agreed upon by Contractor and the State. Both the raw and analyzed survey results will be provided to the State. The following includes some of the areas to be measured on the survey:
 - Responsiveness
 - Communication
 - Courtesy
 - Competence
 - Effectiveness
 - Overall Satisfaction

1.0.11 PRICING

Mark-up for products contained within the Product Web Catalog will be based upon a standard mark-up per manufacturer. Mark-up percentages by manufacturer must be offered on all similar products by that manufacturer. Initial manufacturer mark-up recommendations will be submitted by the Contractor and approved by the MIPRINT Contract Administrator. The MIPRINT Contract Administrator must approve any exceptions to standard manufacturer mark-up. The Contractor will maintain a listing of all approved manufacturer mark-up for reference and audit purposes and provide to the MIPRINT Contract Administrator monthly.

Contractor must provide Fixed Hourly Labor Category Rates – fully loaded hourly rates that include all direct and indirect costs and profit for the Contractor to perform services required under the Contract or a Statement of Work issued under the Contract. The indirect costs shall include all costs that would normally be considered general and administrative costs and/or routine travel costs, or which in any way are allocated by the Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to services required.



Contractors must inform and assist the State, as necessary, at no charge, to take advantage of special offers, promotions, bundles or rebate programs that are offered by manufacturers or the Contractor.

The Contractor must offer all upgrade offers from the manufacturer to the State as well as competitive upgrade offers. The Contractor must also make available documentation for all products, as well as media, and manufacturer subscription or support.

If there are any price reductions during the term of the contract, the State shall pay the reduced price for any hardware ordered after the reduction takes place.

If there are pricing increases during the term of the contract, the State shall be provided justification from the Contractor, in writing, before the increases will be accepted by the State.

The State reserves the right to re-negotiate pricing at any time during the term of the contract.

Future Benefits

Contractor shall pass on to the State any more advantageous terms, conditions and pricing that are driven by market conditions or technological advancement, when any such favourable terms, conditions and pricing are based upon executed contracts with other states or other large users of equivalent systems, components or services

1.200 INPUT AND OUTPUT DEVICE SECTION

TASKS, REQUIREMENTS, AND DELIVERABLES

This section defines the tasks, requirements, and deliverables necessary to purchase devices.

The State of Michigan agencies will only be able to purchase devices that appear on the standards list provided and maintained by the Michigan Department of Information Technology.

Requests to purchase non-standard equipment must be first be sent to the designated SOM MDIT staff for approval prior to the order being fulfilled.

The purchase device list must include options for the 'usual' accessories, i.e. cables, trays, etc.

All devices unless otherwise specified by MDIT will be shipped to the SOM MDIT Depot.

All devices will carry the specified warranties as required by MDIT. All warranty activations are the sole responsibility of the Contractor.

The Contractor will maintain an on-line database of all devices procured by the State of Michigan. This database will be kept separate from any MiDEAL transactions. A complete on-line inventory of leased and purchased equipment, software and features will be maintained and will include, where appropriate, Cost Per Image data for devices, volume thresholds, life cycle/refresh cycle data and utilization parameters. The data will be current and updated as equipment changes location and/or ownership, features are added, equipment disposition occurs etc. Inventory data will be available to the State on an on-going basis.

1.201 SUPPORT: ONGOING SERVICE SUPPORT

Once implementation is complete for a work area and acceptance signoff is received, Contractor will provide on-going support services for the output management devices placed by Contractor. These services encompass warranty service, software driver support, and inventory management and service reporting.

Contractor also will provide, upon request of the State, performance benchmarking and cost comparison efforts in order to assess services relative to current industry standards and perceived best practices. Contractor will review documented verification of industry benchmarks and gap analysis of State of Michigan actuals to benchmarks with the EPM, and make adjustment recommendations, if and to the extent applicable.



Contractor will direct, administrate, and manage a comprehensive lifecycle maintenance program for all Contractor output management devices and software. This maintenance will include technology refresh assistance. The refresh period is defined as the period of time for which an item of equipment shall be placed before it is eligible for a mutually acceptable technological upgrade as per the terms and conditions of the Contract.

All service calls for equipment which has been purchased, including digital copiers, fax machines, printers, and scanners which have not been replaced, will be managed through the MDIT CSC Help Desk. Specific Help Desk process and procedures are available through MiPRINT. This service shall follow current break/fix processes detailed in Appendix 1.4 C SOM Current Break/Fix Process.

Technical Service call support will be provided through both Contractor and Manufacturer direct toll-free telephone support number at no additional charge. These calls will be placed to the Contractor or manufacturer by MDIT support staff. Specific service level agreements for equipment failure and repair support are defined in this Contract. These SLA's shall be reviewed and revised on a continuous basis with final process changes approved by the State of Michigan. Calls not involving break-fix or standard repair maintenance will be managed by Contractor as follows:

User Guide Questions

Contractor will provide User Guide tips and manuals available to assist the end-users and technical support staff. User Guide tips will be available and maintained by Contractor through the Website and in hardcopy. Operator manuals will be available in hardcopy form for placed equipment. Contractor will also respond to calls placed on behalf of agency end users by MDIT support staff for any user questions involving, but not limited to, navigating the output driver software, specific device feature use, and interpretation of device error messages.

The Contractor shall deliver or provide for all of the following:

- (1) Maintain an IT Help Desk support line for MDIT's use.
- (2) Contractor shall provide optional installation services staff as needed by MDIT. Services will be requested as described above.
- (3) Monitoring and tracking data and reports on actual usage data, including benchmarking cost comparison analysis.
- (4) Complete, current inventory of the State's leased or purchased equipment.
- (5) Automated Device Management software
- (6) Web-site creation and maintenance.
- (7) Equipment technology refresh review and recommendation justification.
- (8) Warranty service support and technical support.

1.202 TECHNICAL ASSISTANCE

Contractor must have staff able to provide technical assistance. Contractor must have ready access to manufacturers' technical resources for problems that are beyond the ability of the State service staff. Contractors must furnish technical assistance in the operation and maintenance of machines on request. Such assistance shall be available within 24 hours and without additional cost. Contractors must furnish descriptive literature of all their awarded model(s) to MDIT upon request. Descriptive literature must be sent to MDIT within 24 hours after a request is made at no additional cost.

1.203 SECURITY REQUIREMENTS

- (1) Devices must be able to be controlled or accessed by Active Directory or E-Directory.
- (2) Internal drives must have the ability to cleanse the data on the device after data has been outputted.
- (3) The device must not allow split horizon between the hardware interfaces. (In other words, two active network interfaces can not be configured to allow data to come in or out of one network interface and move in or out of another network interface on a device at the same time.)



- (4) The device must have the ability to authenticate a user prior to printing or scanning a sensitive document.
- (5) All remote management of the device must be able to be configured from a central location. If SNMP is to be used it must be version 3 or greater.
- (6) All warranty replaced hard drives must be disposed of according to Federal or State of Michigan standards.
- (7) Data stored on devices should be encrypted or stored in such a manner as to not allow the ability for outside forces to re-create the document or image.
- (8) Devices that use WiFi interface must be able to support WPA2.

1.204 MANAGED SOFTWARE REQUIREMENTS

The managed software must have a back-end SQL database and perform automated meter collection. The software must allow authorized MDIT staff to manage settings on remote devices and it must be able to inventory all networked I/O devices. Software support, updates, tech support, etc. are required and the software must provide for active and passive polling.

The software must be able to work with all manufacturers to pull information from printers (device status, firmware levels, service codes, etc.) and it must be able to do service reporting, i.e. downtime reports, etc. and be able to provide a graphical dashboard of Device status i.e. monitor or monitoring (standard printer MIB). Devices in an error state must have priority display.

The software will be tested for functionality by MDIT Staff. Based on the test results, the software proposed by the vendor will be accepted or rejected. If the software is rejected, then the vendor will be responsible for providing a suitable alternative application(s). The accepted software must be in place within 6 months after the award of the contract.

1.205 CUSTOMER SERVICE

The Contractor must provide the State a single, local point of contact to handle questions and resolve problems that arise. At least one Customer Service Representative must be available Monday through Friday (excluding State-designated legal holidays) from 8:00 AM to 5:00 PM Eastern Time. All service representatives must have online access to information to provide immediate response to inquiries concerning the status of orders (shipped or pending), delivery information, back-order information, State-wide Contract pricing, Contracted product offerings/exclusions, Contract compliance requirements, and general product information. Representatives must be available by phone, fax, or email (local or 800 # preferred).

1.206 COMMUNICATION PLAN

To facilitate proactive customer communication and performance programs based on the State of Michigan's Service Level Agreements and requirements, the MiPRINT communication plan consists of the following:

- a. The CPM, EPM and the ECM will meet monthly or more often to assess service level performance.
- b. A dynamic Website, maintained by Contractor, that provides current process, policy, status, and user guide information. State of Michigan will approve all web content.

1.207 PRINTERS AND PLOTTERS

The Contractor must offer printers and plotters for purchase. The cost of the printers and plotters must include the selected SOM warranty standards.

1.208 WARRANTY REGISTRATION

IKON is responsible for ensuring that **all** warranties are registered with the manufacturer within two days of shipment of the product from the manufacturer.

IKON is responsible for verifying warranty registration in the monthly reports provided to the State.



1.209 WARRANTY PROCESS

Warranty support will be provided as follows:

Warranty Repair Calls

MDIT Technical Staff will perform initial diagnosis on output management equipment purchased from IKON. "Warranty Repair" calls will be placed by authorized MDIT support staff to IKON via the dedicated support line provided by IKON. IKON is responsible to have representatives available who will provide initial customer contact within one (1) business hour for warranty repair calls. IKON will coordinate the repair. IKON is responsible for providing resolution to warranty call within one business day from the time of the call from MDIT to IKON. If a technician needs to respond on-site, IKON is responsible for any and all costs involved in returning the equipment to operation, including travel, parking, labor, and part replacement. After the warranty issue is resolved, IKON must contact the MDIT Client Service Center before leaving the site (when applicable) to close the case.

Replacement of Contractor Supplied Individual Output Management Devices

In the event that any device fails in any material respect to perform in accordance with applicable manufacturer specifications, as part of its service obligations, Contractor agrees to promptly repair such item following receipt of notice from MDIT.

Once the Contractor has been unable to repair devices to conform to applicable manufacturer specifications or the downtime of the device becomes excessive, the Contractor with approval by the EPM, will replace the defective individual output management device. The factors which would necessitate a device replacement include the following:

- (a) the individual device's unacceptable degree of operational up-time,
- (b) the individual device's failure to otherwise meet performance specifications in any material respects, or
- (c) Contractor's consistent pattern of non-compliance or inability to meet service requirements and response times in regard to that device.

Thereafter, the Contractor will promptly replace the unit at no additional charge to the State.

1.210 PROGRAM CONTROL AND QUALITY

Governance

A MiPRINT governance structure representative of key State and stakeholders will be in place to:

- (1) Ensure that SLA's and other contractual requirements are being met and/or exceeded
- (2) Enhance the value of the State of Michigan/Contractor relationship by managing and reporting performance issues on a regular basis
- (3) Improve communications between the State of Michigan Agency and Contractor staff through regularly scheduled meetings and performance reviews. MiPRINT Governance groups include:

MiPRINT Steering Committee: Responsible for strategic direction, policy setting and policy compliance issue review and recommendation.

Agency Team: Consisting of an Agency Program Coordinator and Agency business leadership, responsible for managing MiPRINT operational procedures within the agency, providing strategic and status input to the Steering Committee, and coordinating MiPRINT activities within the Agency.



Enterprise Program Manager: Responsible for overseeing the MiPRINT program across the State through building and maintaining a partnership with Contractor, supporting Contractor-Agency relationships and activities, facilitating final issue resolution, and chairing the Steering Committee.

Enterprise Contract Manager: Responsible for managing the contract and establishing product standards leased and purchased under this contract.

Contractor: Reports to the EPM or designee in cooperation with the MiPRINT program.

Performance Requirements, Measurement, and Tracking

If a machine is down for more than ONE working day, the Contractor must furnish a replacement. (Like-for-like replacement = a machine that works in accordance with manufacturer's specifications and that has the same approximate features and speed).

Additional up-time guarantees shall be as follows:

- (1) Should any piece of equipment require three (3) or more service calls in any given thirty (30) day period that are not the result of user error, the State may require that such machine be removed and replaced, in which case Contractor shall supply a machine of equal or greater functionality; provided, however that if such replacement machine is not reasonably satisfactory to the State, Contractor shall then supply the State with a new machine of equal functionality.
- (2) In the event of the foregoing, neither the State nor the requesting entity will be held responsible for any costs of removing devices nor will they be subject to any penalties relating to a necessary replacement.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of five (5) years beginning April 10, 2009 and ending April 9, 2014. All outstanding Purchase Orders must also expire upon the termination or cancellation for any of the reasons listed in this 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 thirty (30) days before its expiration. The Contract may be renewed for up to two (2) additional one (1) 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 or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 Order of Precedence

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**.

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 Department of Information Technology (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. The Purchasing Operations Contract Administrator for this Contract is:

Dale N. Reif, Buyer
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
reifd@michigan.gov
(P) (517) 373-3993
(F) (517) 335-0046

2.022 Contract Compliance Inspector

Upon receipt at the Office of Purchasing of the properly executed Contract Agreement, it is anticipated that the Director of Purchasing will direct that the person named below or any other person so designated be authorized to administer the Contract on a day-to-day basis during the term of the Contract. However,



administration of any Contract resulting from this Request implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of such Contract. That authority is retained by the Office of Purchasing. The Contract Administrator for this project is:

Mary Ladd
Michigan Department of Information Technology
Contract Portfolio Analyst
Constitution Hall, S. Atrium
525 West Allegan Street
Lansing, MI 48913
(517) 335-4082 phone
(517) 241-8852 fax
E-Mail: laddM@michigan.gov

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

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

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

(1) Change Request at State Request

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

(2) Contractor Recommendation for Change Requests:

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



- (3) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.
- (4) 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").
- (5) 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.
- (6) 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 in Section 2.021: (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.

Contractor: TBD

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 the 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

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.

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.

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 ninety (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 forty-five (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 fifteenth day of the following month.

The Government 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.

2.045 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 thirty (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 Contract Management Responsibilities

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services. Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with the Project Plan is likely to delay the timely achievement of any Contract tasks.

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

2.068 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.

2.070 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. A list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract is attached.

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, and 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 ten (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

Contractors with access to credit/debit card cardholder data must adhere to the Payment Card Industry (PCI) Data Security requirements. Contractor agrees that they are responsible for security of cardholder data in their possession. Contractor agrees that data can ONLY be used for assisting the State in completing a transaction, supporting a loyalty program, supporting the State, providing fraud control services, or for other uses specifically required by law.

Contractor agrees to provide business continuity in the event of a major disruption, disaster or failure.

The Contractor will contact the Department of Management and Budget, Financial Services immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor agrees the Payment Card Industry representative, or a Payment Card Industry approved third party, will be provided with full cooperation and access to conduct a thorough security review. The review will validate compliance with the Payment Card Industry Data Security Standard for protecting cardholder data.

Contractor agrees to properly dispose sensitive cardholder data when no longer needed. The Contractor will continue to treat cardholder data as confidential upon contract termination.

The Contractor will provide the Department of Management and Budget, Financial Services documentation showing PCI Data Security certification has been achieved. The Contractor will advise the Department of Management and Budget, Financial Services of all failures to comply with the PCI Data Security Requirements. Failures include, but are not limited to system scans and self-assessment questionnaires. The Contractor will provide a time line for corrective action.



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 in this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose 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 this Section 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 ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) days prior written notice and at all reasonable times, the State's representatives 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 twenty (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 thirty- (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

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 forty-five (45) days of the last quarterly invoice that the balance appeared on or termination of the contract, whichever is earlier.

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 neither 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 (2) 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 changes 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

Goods provided by Contractor under this agreement shall be merchantable. All goods provided under this Contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor or on the container or label.

2.123 Warranty of Fitness for a Particular Purpose

When the Contractor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the Contractor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

2.124 Warranty of Title

Contractor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by Contractor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by Contractor, under this Contract, shall be delivered free of any rightful claim of any third person by of infringement or the like.

2.125 Equipment Warranty

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

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

Within fifteen (15) business days of notification from the State, the Contractor must adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

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

The Contractor agrees that all warranty service it provides under this Contract must be performed by Original Equipment Manufacturer (OEM) trained, certified and authorized technicians.

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

2.126 Equipment to be New

If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are



like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

2.127 Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

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 that 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 provided relative to this Contract/Purchase Order is 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. Companies that have been approved to do business in the State must issue all policies of insurance required in this Contract.

See 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 INSUREDs on the Commercial General Liability certificate.



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

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

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL 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 a self-insurer provides the applicable coverage, 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 Number or the Purchase Order Number 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 coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without thirty (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of 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 twenty (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 insured 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 thirty (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 ten (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 ten (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 thirty (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 thirty (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 thirty (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 thirty (30) days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in 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.

2.155 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 thirty (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 six (6) months. 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, the termination provisions of this Contract must govern reimbursement. 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 reconcile all accounts between the State and the Contractor, complete any pending post-project reviews and perform any others obligations 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 ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order 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 thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.024**.

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 2.153**, 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 liable to Contractor for loss of profits because of a stop work order issued under this Section.

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:

(1) 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.

(2) 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.

(3) 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.

(4) Following the completion of this process within sixty (60) calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within thirty (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 2.193.

(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 2.192** 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, and 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. The United States National Labor Relations Board compiles this information. 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.

The Contractor's liability for damages to the State is limited to two times the value of the Contract or \$500,000 which ever is higher. The foregoing limitation of liability does not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

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 thirty (30) days of its occurrence. Details of settlements that 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.

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:

- (a) the ability of Contractor (or a Subcontractor) to continue to perform this Contract according to its terms and conditions, or
- (b) 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:
 - (1) 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



- (2) 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 thirty (30) days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DMB Purchasing Operations.
 - (2) Contractor must also notify DMB Purchasing Operations within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
 - (3) Contractor must also notify DMB Purchase Operations within thirty (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 thirty (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 2.241**, 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 Agreement (SLA)

- (a) SLAs will be completed with the following operational considerations:

- (1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.



- (2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
- (3) 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.
- (4) 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:
 - (i) 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.
 - (ii) 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 thirty (30) day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three 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

Liquidated damages specific to this Contract: (1) failure by the Contractor to make timely delivery of deliverables listed below (any such failure being referred to below as a "Late Delivery"), (2) software provide by the Contractor to the State containing or introducing a software virus that results in contamination or damage to the State's equipment or its mainframe, network, personal computing or other operating environments (any such item of software being referred to below as "Contaminated Software").

In these cases it is agreed that it would be impractical and extremely difficult to fix the actual amount of damages sustained by the State as a result of any such Late Delivery, Unauthorized Removal or Contaminated Software. Therefore, the Contractor and the State agree that, in the event of any such Late Delivery or Contaminated Software, the liquidated damage amounts specified below are a reasonable approximation of the damages that will be suffered by the State as the result thereof. Accordingly, in the event of such Late Delivery or Contaminated Software, at the written direction of Purchasing Operations, the Contractor agrees to pay the indicated amount to the State as liquidated damages, and not as a penalty. Liquidated damages shall be payable with fifteen (15) business days after notification of assessment by the State. In its discretion, the State may deduct any liquidated damages assessed by the State from any charges payable to the Contractor pursuant to the Contract(s). No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such right.

For the purpose of determining when liquidated damages are due to the State under this Section, the date on which the Contractor shall be considered to have delivered a deliverable to the State is the date on which the Contractor delivers the deliverable to the State in a form that is subsequently determined by the State to meet the acceptance criteria for such deliverable, provided, however, that the Contractor shall not be liable for liquidated damages for the period in which the State is determining whether such deliverables are acceptable.

Late Delivery of Products and Services

The delivery and/or installation dates of products (hardware & software) and services set forth by the Purchase Order submitted by the State will be fixed so that the utilization of the products and services will be consistent



with the timing schedules of the State's programs. If any of the above mentioned products or services are not delivered and/or installed to the State within the time specified by the Agency in the Purchase Order or signed work statement, the delay will interfere with the proper implementation of the State's programs utilizing the products or services pursuant to any resulting Contract(s), to the lost and damage of the State.

- A If the Contractor does not install or deliver each of the products or services as required in the Agency Purchase Order (hardware/software) or the signed Statement of Work, (but not to exceed the general terms & conditions of this Contract without mutual agreement of the Contractor and the State) ready for use, on or before the required date specified in that Agency Purchase Order or Statement of Work, Purchasing Operations, in its sole discretion, may require the Contractor to pay the State liquidated damages for each calendar day between the required date specified on the Agency Purchase Order or signed Statement of Work and the date of actual delivery and/or installation for such products or services, (but not more than 180 calendar days see C below) in lieu of all other damages due to such late deliver or late performance in a amount calculated as follows for each unit of equipment or software package:

Late Installation/Delivery - Desktop Equipment \$25/day

Late Installation/Delivery - Software Package \$13/day

Late Delivery - Services \$63/day

Late Installation/Delivery - Server Equipment \$63/day

If the Contractor supplies substitute products or services acceptable as indicated by the MMCC Contract Administrator, liquidated damages will not apply, provided, however, liquidated damages will apply if such substitute hardware or software package is provided later than the delivery or installation date specified on the Agency Purchase Order.

- B If the delay is more than twenty (20) business days, then by written notice to the Contractor, the State may terminate the right of the Contractor to deliver or install, and may obtain substitute products or services. In this event, the Contractor shall be liable for liquidated damages in the amount specified above until acceptable substitute products or services are delivered or installed, ready for use, or for 120 business days from the installation date, whichever occurs first. The Contractor shall also be liable for outbound preparation and shipping costs for Contracted items returned under this clause; and for any additional cost incurred by the State for products and/or services provided by an alternative source resulting from the delay.
- C Contractor shall not be assessed liquidated damages for late delivery or installation if the equipment or software is a "constrained" product. A "constrained" product is a product that is not available from the manufacturer within the desired time frame. The Prime Contractor may be required to furnish documents from the manufacturer to validate that a product is constrained. If Contractor reasonably determines that a product is "constrained", Contractor will identify a functionally equivalent product or component as a temporary substitution and will make a request to for the MMCC Contract Administrator and Purchasing Operations to authorize shipment of such substitution. The involved Agency will also retain the option to receive the product originally requested with delivery as soon as the product becomes available from the manufacturer. Authorization will be deemed valid if received from either the MMCC Contract Administrator or Purchasing Operations. If the manufacturer is unable to correct the delivery-related problem, or consistently misses its delivery promises, Contractor will request approval from the State that the functionally equivalent product or component be added to the Product Web Catalog as a permanent replacement.

Contaminated Software.

If any software provided by the Contractor contains or introduces a software virus that results in contamination or damage to the State's equipment or its mainframe, network, personal computing or other operating environments, the Contractor will pay the State, as liquidated damages, the following amounts:



- A \$5,000 for each or fraction of an hour in excess of one (1) hour that any mainframe computer function or operation available prior to the introduction of the Contaminated Software is unavailable to one or more persons in the State's user community; and
- B \$200 for each hour or fraction of an hour in excess of one (1) hour for each piece of equipment in the State's network or personal computing environment unable to perform any function or operation which it was able to perform prior to the introduction of the Contaminated Software.

The liquidated damages set forth herein shall be in addition to the Contractor's obligation to remove the software virus from all of the State's operating environments, to restore all operations and functionality in all such operating environments, and to recover or recreate all damaged files, all at no additional charge to the State. The State may, however, at its option, elect to restore or recreate damaged or lost data files at Contractor's expense, in which event Contractor shall pay the State \$50 for each hour or fraction of an hour multiplied by the total number of staff hours that State personnel expend to recover or recreate damaged State data files.

Unauthorized Removal of any Key Personnel

It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.141**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount is \$25,000.00 per individual if the Contractor identifies a replacement approved by the State under **Section 2.060** and assigns the replacement to the Project to shadow the Key Personnel who is leaving for a period of at least thirty (30) days before the Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least thirty (30) days, in addition to the \$25,000.00 liquidated damages for an Unauthorized Removal, Contractor must pay the amount of \$833.33 per day for each day of the thirty (30) day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide thirty (30) days of shadowing must not exceed \$50,000.00 per individual.

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 of Deliverables

A list 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") or a Custom Software Deliverable is attached, if applicable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute's Capability Maturity Model for Software ("CMM Level 3") or its equivalent.

2.252 Contractor System Testing

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor's development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor's System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor's system development methodology:

Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume



and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor's System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State's computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor's test plan for Business Function Testing.

Within five (5) Business Days following the completion of System Testing pursuant to this **Section**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

2.253 Approval of Deliverables, In General

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, Contractor in accordance with this Section will deem the review period to have started on the day the State receives the Deliverable and the applicable certification.

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable 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 that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor



(and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

The State, at any time and in its own discretion, may halt the UAT or approval process if such process reveals deficiencies in or problems with a Deliverable in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the review or UAT process and, in that event, Contractor will correct the deficiencies in such Deliverable in accordance with the Contract, as the case may be.

Approval in writing of a Deliverable by the State shall be provisional; that is, such approval shall not preclude the State from later identifying deficiencies in, and declining to accept, a subsequent Deliverable based on or which incorporates or inter-operates with an approved Deliverable, to the extent that the results of subsequent review or testing indicate the existence of deficiencies in the subsequent Deliverable, or if the Application of which the subsequent Deliverable is a component otherwise fails to be accepted pursuant to **Section 2.080**.

2.254 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 Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) 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 Written 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 Written Deliverable to confirm that the identified deficiencies have been corrected.

2.255 Process for Approval of Custom Software Deliverables

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor shall provide to the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in an attachment, the State Review Period for conducting UAT will be as indicated in the attachment. For any other Custom Software Deliverables not listed in an attachment, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by this **Section** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.



The State's UAT will consist of executing test scripts from the proposed testing submitted by Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State's UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section**.

2.256 Final Acceptance

"Final Acceptance" shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

2.260 Ownership

2.261 Ownership of Work Product by State

The State owns all Deliverables, as they are work 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

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.

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

2.281 MiDEAL (Michigan Delivery Extended Agreements Locally

Act Number 431 of the Public Acts of 1984 permits the State of Michigan, Department of Management and Budget, to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. As a result of the enactment of this legislation, the MIDEAL Program has been developed. This program extends the use of state contracts to program members. The governmental agency must enter into an agreement with the State of Michigan to become authorized to participate, thus ensuring that local units of government secure a greater return for the expenditure of public funds.

In those cases, contract vendors supply merchandise at the established State of Michigan contract prices and terms. The Bidder must submit invoices and pay the authorized MIDEAL member on a direct and individual basis according to contract terms.

It is mandatory that all Contracts resulting from this RFP will be made available to all State of Michigan agencies and authorized MiDEAL purchasing program members.

Please Visit Mi DEAL at www.michigan.gov/buymichiganfirst under MiDEAL.

Estimated requirements for authorized local units of government are not included in the quantities shown in this RFP.



2.282 State Employee Purchases

The State allows State employees to purchase from this Contract. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the State employee is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and Deliverables at the established State of Michigan contract prices and terms to the extent applicable and where available. The Contractor must send its invoices to and pay the State employee on a direct and individual basis.

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

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 recyclables; 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 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).

Labeling: 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

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.).

2.300 Deliverables

2.301 Software

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

2.302 Hardware

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

2.303 Equipment to be New

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

**2.304 Equipment to be New and Prohibited Products**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

2.310 Software Warranties**2.311 Performance Warranty**

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

2.312 No Surreptitious Code Warranty

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

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

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

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

2.313 Calendar Warranty

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

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



reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.314 Third-party Software Warranty

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

2.315 Physical Media Warranty

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

2.320 Software Licensing

2.321 Cross-License, Deliverables Only, License to Contractor

The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and exercise its full rights in the Deliverables, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables.

2.322 Cross-License, Deliverables and Derivative Work, License to Contractor

The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable and/or Derivative Work now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and/or Derivative Work and exercise its full rights in the Deliverables and/or Derivative Work, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables and/or Derivative Work.

2.323 License Back to the State

Unless otherwise specifically agreed to by the State, before initiating the preparation of any Deliverable that is a Derivative of a preexisting work, the Contractor shall cause the State to have and obtain the irrevocable, nonexclusive, worldwide, royalty-free right and license to (1) use, execute, reproduce, display, perform, distribute internally or externally, sell copies of, and prepare Derivative Works based upon all preexisting works and Derivative Works thereof, and (2) authorize or sublicense others from time to time to do any or all of the foregoing.

2.324 License Retained by Contractor

Contractor grants to the State a non-exclusive, royalty-free, site-wide, irrevocable, transferable license to use the Software and related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location.

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



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

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

In the event that the Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the State shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the then current rates.

2.325 Pre-existing Materials for Custom Software Deliverables

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

2.330 Source Code Escrow

2.331 Definition

“Source Code Escrow Package” shall mean:

- (a) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
- (b) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
- (c) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

2.332 Delivery of Source Code into Escrow

Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within (30) thirty days of the execution of this Contract.

2.333 Delivery of New Source Code into Escrow

If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

2.334 Verification

The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

2.335 Escrow Fees

The Contractor will pay all fees and expenses charged by the Escrow Agent.



2.336 Release Events

The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:

- (a) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
- (b) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
- (c) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

2.337 Release Event Procedures

If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in this **Section**, then:

- (a) The State shall comply with all procedures in the Escrow Contract;
- (b) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
- (c) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

2.338 License

Upon release from the Escrow Agent pursuant to an event described in this **Section**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

2.339 Derivative Works

Any Derivative Works to the source code released from escrow that are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.



**DEPARTMENT OF INFORMATION TECHNOLOGY
IT SERVICES
STATEMENT OF WORK**

Project Title:	Period of Coverage:
Requesting Department:	Date:
Agency Project Manager:	Phone:
MDIT Contract Liaison:	Phone:

Brief Description of Services to be provided:

BACKGROUND:

PROJECT OBJECTIVE:

SCOPE OF WORK:

[Attach and reference a detailed Work Statement if needed]

TASKS:

Technical support is required to assist with the following tasks:

DELIVERABLES:

Deliverables will not be considered complete until the Agency Project Manager has formally accepted them. Deliverables for this project include:

PROJECT CONTROL AND REPORTS:

A bi-weekly progress report must be submitted to the Agency Project Manager throughout the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

Hours: Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.

Accomplishments: Indicate what was worked on and what was completed during the current reporting period.

Funds: Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

SPECIFIC DEPARTMENT STANDARDS:

Agency standards, if any, in addition to MDIT standards.

PAYMENT SCHEDULE:

NOTE: Payment can be based upon:

Time and Materials

Satisfactory acceptance of each Deliverable

Satisfactory acceptance of each Milestone (major part of the contract)

Satisfactory Final Acceptance at conclusion of the contract.

Optional Provision - The AGENCY may withhold 10 percent from each payment until acceptance by the AGENCY of the final report (or completion of the project, etc.).



Payment will be made on a **[Insert one from above]** basis. DIT will pay CONTRACTOR upon receipt of properly completed invoices which shall be submitted to the Project Manager not more often than monthly. All invoices should reflect actual work completed by payment date, and must be approved by the Agency Project Manager prior to payment. The invoices shall describe and document to the Project Manager's satisfaction a description of the work performed, the progress of the project, and fees. When expenses are invoiced, provide a detailed breakdown of each type.

Payment shall be considered timely if made by the DIT within thirty (45) days after receipt of properly completed invoices.

EXPENSES:

NOTE: Expenses are optional. Do not include Expenses paragraph below if expenses are not allowable. If allowable, include only expenses, which are appropriate for the contract. Choose one of the following:

In the event it is necessary for contractual staff to travel for this project, prior approval must be obtained by the project manager. Additionally, travel charges will only be reimbursed at current state-authorized rates as outlined by DMB guidelines (<http://www.michigan.gov/dmb/1,1607,7-150-9141---,00.html>.) and must be accompanied by actual receipts. Travel time will not be reimbursed.

OR

The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency Project Manager is:

Name
Department
Area
Building/Floor
Address
City/State/Zip
Phone Number
Fax Number
Email Address

The MDIT Contract Administrator for this project is:

Name
Michigan Department of Information Technology
Building/Floor
Address
City/State/Zip
Phone Number
Fax Number
Email Address

AGENCY RESPONSIBILITIES/ASSUMPTIONS:**LOCATION OF WHERE THE WORK IS TO BE PERFORMED:**

Consultants will work at ?? in Lansing, Michigan.

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:

Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours



of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted without prior written approval of both ? and ?.

APPROVALS

Agency Project Manager

DIT Information Officer

MMCC RFP
Appendix 1.0.D Asset Reporting Requirement for the SOM

Appendix 1.0.D ASSET REPORTING REQUIREMENT

Input/Output Equipment purchased:

Contractor will report within ten (10) days of the end of each quarter to MDIT, all input/output purchases made from this contract.

1. The report should be sent to the following email addresses. ITAM, Kris Wang at WangK1@Michigan.gov
2. The report will be in Excel format.
 - The report format, with the required fields, as shown below. The format should stay the same unless agreed to by the Contractor and MDIT.
 - All the serial numbers will be kept in one column. For example, if one PO is associated with 10 input/output devices, there will be 10 rows for each serial number.
 - The Description field will be kept under 255 characters and kept consistent by manufacturer/model.

Sold To Department
SOM PO Number
Invoice Num (Contractor)
Invoice Date
Product Description
Manufacturer Name (HP, Ricoh etc)
Model Number
Product Category (Scanner, Printer, MFD, etc.)
Unit Price
Contractor PO Number
Delivery Date
Serial Number
Warranty End Date

ITAM Catalog

The State's ITAM will interface with vendor catalog file to populate the product model and nature fields.

- 1) The required catalog interface is an ASCII delimited file.
- 2) An incremental update file will be received daily (Monday-Friday 6 PM EST)
- 3) A full load file will be received weekly (Saturday 6 PM EST)
- 4) The file will be transferred through Data Exchange Gateway. ITAM will provide the address to the vendor.
- 5) The length of "Description" field will be kept under 255 characters.
- 6) One Description will be only assigned to one Category, one Item Number, one SKU, and one Price.
No duplicate is allowed.

For example:

DESCRIPTION	CATEGORY
APC-Rack-black	System Accessories

Select the category that best fits.

- 7) The catalog file structure/format may be changed as a new design is implemented in the SOM's ITAM system.
- 8) The catalog file contains the following fields:

MMCC RFP
Appendix 1.0.D Asset Reporting Requirement for the SOM

Field	Definition
OPERATION_CODE	Contractor determines the "Operation Code." The possible values are A (add), C (change), and D (delete). This is a field to flag whether it is an added, changed, or deleted item.
MANUFACTURER	Manufacturer name
ITEM_NUMBER	Manufacturer's item number
DESCRIPTION	Description of the product limited to 255 characters.
CATEGORY	Field value determined by the State.
SKU	Manufacturer's SKU
PRICE	Unit price for State of Michigan.
AGENCY_APPROVED	Supplied by the State. Field values are "Y" for standard items and "N" for non-standard items.

Appendix 1.0.E ITRAC REQUIREMENTS

ITRAC currently requires a file containing the common commodities that agencies are approved to order. The following items listed below are required.

- The required catalog file is a text file with data elements delimited by tab characters.
- Incremental updates to the catalog will be received daily (Monday-Friday 6 PM EST)
- A full load file will be received weekly (Friday 6 PM EST)
- The file will be transferred to the Data Exchange Gateway using FTP.
- The length of "Description" field will be kept under 255 characters.
- The catalog file structure/format may be changed as a new design is implemented in the ITRAC system.
- The Description file must support the addition of a 4 character identification code used to match commonly purchased items. Example: "E01-"
- The data elements are:
 - OPERATION_CODE
 - ITEM_NUMBER
 - MANUFACTURER
 - DESCRIPTION
 - CATEGORY
 - SKU
 - PRICE
 - AGENCY_APPROVED

ITRAC would like to move to a more direct catalog interface such as a web service interface so that ITRAC can access the catalog directly and pull extracts on demand.

Appendix 1.0.F Current SOM Asset Recovery Service**Policy**

The Department of Information Technology requires that all requests for disposal of IT equipment be processed through MDIT's Depot Maintenance by following the instructions outlined on the Automated Asset Recovery Program Website located at <http://aarpweb.state.mi.us/AARP> . The Customer should review the aides provided under Help, entitled "Submitting a Retrieval Request" and/or "Training Audio" for instructions. Depot will then evaluate what can be placed into MDIT stock, redeployment to other agencies, or what will be sent through the Asset Recovery Process.

The following procedure explains the process for the MDIT Asset Recovery Process of IT equipment.

Customer

- Customer determines equipment for disposal.
- Customer completes the online request via Automated Asset Recovery Program (AARP) web link and will submit the request to the MDIT Client Service Center by selecting the **Submit to CSC** button. *It is not necessary to print the document as it can be viewed at any time from the AARP web link by performing a Search on the Reference Number.*
- If necessary, the Customer may contact the Client Service Center to request Field Service assistance with completing the online AARP request.

Client Service Center

- Creates the Change Request, notify Customer via email and assigns to Depot for processing.

Depot

- Depot receives Change Request.
- Depot ARS staff person documents the equipment to be picked up by the Vendor Partner or Carrier.
- Depot ARS staff person will email AARP disposal request list to Vendor Partner or Carrier (depending on if the equipment is for trade in or disposal) to initiate the ARS process.

Vendor Partner

- Vendor Partner receives AARP disposal list and makes arrangements with Site Contact and Carrier for a pickup. Equipment will be scheduled for pickup within 3 business days for the trade-in program.

Depot

- Depot ARS Staff assigns a task to ship the equipment that Depot wants returned.
- Depot ARS Staff will coordinate pickup of the equipment being retained or that is outside the trade-in program. This pickup may take more than 3 days.

Carrier

- Carrier inventories the equipment list provided by Site Contact.
- Carrier will sign off on the disposal list and give to Site Contact.
- Carrier will affix an ARS tag to all equipment that is removed from site.

SOM Site

- Site Contact will sign off on the inventoried disposal list and fax it to Depot ARS Staff at (517) 334-9596 and retain a copy for their records.

Carrier

- Carrier transports trade-in equipment to the Vendor Partner (for trade in), or Depot (for equipment not being traded in) and gets sign off on equipment delivered.

Vendor Partner

- Vendor Partner processing area signs for receipt of equipment that is received.
- Vendor Partner will provide a 15-day receipt report of the equipment transferred.

Depot

- Depot ARS Staff reconciles the various reports for discrepancies and updates Asset Center to reflect the change in stock status to retired once the receipt report is received. At this point the Change Request is resolved.

Vendor Partner

- Vendor Partner processes the received equipment removing all evidence of SOM ownership and completes data destruction.
- Vendor Partner sends Depot the certificate of data destruction listing all systems that have been processed.

Depot

- Depot retains certificate of data destruction from the Vendor Partner.

Vendor Partner

- Vendor Partner will provide a Settlement Report within 30 business days to Depot ARS Staff and Manager. This report will display the activities of each site individually. Value recovery reimbursements will be in the form of credits toward future product purchases and will be issued by agency and tracked by Dell.

Depot

- Depot ARS Staff receives the monthly activity reports from Vendor Partner and will prepare a report for DIT Leadership that details the program activity and any issues.
- PROCESS COMPLETE!

Contact

Any questions or concerns regarding this policy and procedure should be directed to the Client Service Center at (800) 968-2644 or local 241-9700.

