Form No. DTMB-3521 (Rev. 5/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

CHANGE NOTICE NO. 2
to
CONTRACT NO. 071B2200126
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Comcast Business Communications, LLC	Megan DeLamielleure	Megan_DeLamielleure@cable.comcast.com
1701 JFK Boulevard	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
Philadelphia, PA 19103	(517) 825-9890	-1871

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Jim Bowen	(517) 322-6156	bowenj@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Mike Breen	9517) 284-7034	breenm@michigan.gov

CONTRACT SUMMARY

DESCRIPTION: Commercial Broadband, Cable TV and Basic Internet - Statewide

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 8, 2012	February 7, 2017	4, one year	February 7, 2017

PAYMENT TERMS	F.O.B.	SHIPPED TO
Net 45	N/A	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
☐ P-card ☒ Direct Voucher (DV) ☐ Other	☒ Yes ☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
☒ No ☐ Yes	☐	☐		February 7, 2017

CURRENT VALUE	VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE
$2,875,000.00	$0.00	$2,875,000.00

DESCRIPTION:
Effective immediately, contract is amended to provide approved enhanced technology services that will provide the state to Commercial Broadband, Cable TV and Internet Provider Service Solutions, allowable under the terms of the contract. All other terms, conditions, pricing and specifications remain the same. Per agency (Telecommunication Services) and DTMB Procurement request/approval.

Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

September 25, 2013

CHANGE NOTICE NO. 1
to
CONTRACT NO. 071B2200126
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Comcast Business Communications, LLC 1701 JFK Boulevard Philidelphia, PA 19103	Kelly Locke	Kelly_locke@cable.comcast.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	517-334-9138	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Jim Bowen	517-322-6156	bowenj@michigan.gov
BUYER	DTMB	Mike Breen	517-241-7720	Breenm@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION: **Commercial Broadband, Cable TV, and Basic Internet - Statewide**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 8, 2012	February 7, 2017	4, 1 Year Options	February 7, 2017
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	N/A	N/A	N/A

ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS	
☐ P-card	☒ Direct Voucher (DV)	☒ Other	☒ Yes	☐ No

MINIMUM DELIVERY REQUIREMENTS:

N/A

DESCRIPTION OF CHANGE NOTICE:

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
☒ No ☐ Yes	☐	☐		February 7, 2017

VALUE/COST OF CHANGE NOTICE:	ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:
$0.00	$2,875,000.00

Effective immediately, adding/ expanding services of Ethernet Private Line over hybrid/coax and dedicated Ethernet Private Line. Please see attachments.

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

Per agency (Telecommunications) and vendor agreement and DTMB Procurement approval.

Comcast Cable Communications Management, LLC
Exhibit 1

Contract Pricing For Ethernet Dedicated Internet (EDI) Services

Speed	2 Year	3 year	5 Year	Installation	Hand-off
10 Mbps	$900.90	$819.00	$ 737.10	$0.00	Copper or Fiber
20 Mbps	$1,085.70	$987.00	$ 888.30	$0.00	Copper or Fiber
25 Mbps	$1,185.80	$1,078.00	$ 970.20	$0.00	Copper or Fiber
30 Mbps	$1,278.20	$1,162.00	$ 1.045.80	$0.00	Copper or Fiber
40 Mbps	$1,463.00	$1,330.00	$ 1,197.00	$0.00	Copper or Fiber
50 Mbps	$1,647.80	$1,498.00	$ 1,348.20	$0.00	Copper or Fiber
60 Mbps	$1,794.10	$1,631.00	$ 1,467.90	$0.00	Copper or Fiber
70 Mbps	$1,978.90	$1,799.00	$ 1,619.10	$0.00	Copper or Fiber
80 Mbps	$2,163.70	$1,967.00	$ 1,770.30	$0.00	Copper or Fiber
90 Mbps	$2,348.50	$2,135.00	$ 1,921.50	$0.00	Copper or Fiber
100 Mbps	$2,541.00	$2,310.00	$ 2,079.00	$0.00	Copper or Fiber
200 Mbps	$3,549.70	$3,227.00	$ 2,904.30	$0.00	Copper or Fiber
300 Mbps	$4,92.65	$3,811.50	$ 3,430.35	$0.00	Copper or Fiber
400 Mbps	$4,839.45	$4,399.50	$ 3,959.55	$0.00	Copper or Fiber
500 Mbps	$5,482.40	$4,984.00	$ 4,485.60	$0.00	Copper or Fiber
600 Mbps	$6,129.20	$5,572.00	$ 5,014.80	$0.00	Copper or Fiber
700 Mbps	$6,772.15	$6,156.50	$ 5,540.85	$0.00	Copper or Fiber
800 Mbps	$7,415.10	$6,741.00	$ 6,066.90	$0.00	Copper or Fiber
900 Mbps	$8.061.90	$7,329.00	$ 6,596.10	$0.00	Copper or Fiber
1000 Mbps	$8,662.50	$7,875.00	$ 7,087.50	$0.00	Copper or Fiber
2000 Mbps	$11,372.90	$10,339.00	$9,305.10	$0.00	Copper or Fiber
3000 Mbps	$13,167.00	$11,970.00	$10,773.00	$0.00	Copper or Fiber
4000 Mbps	$15,130.50	$13,755.00	$12,379.50	$0.00	Copper or Fiber
5000 Mbps	$17,378.90	$15,799.00	$14,219.10	$0.00	Copper or Fiber

6000 Mbps	$20,027.70	$18,207.00	$16,386.30	$0.00	Copper or Fiber
7000 Mbps	$22,661.10	$20,601.00	$18,540.90	$0.00	Copper or Fiber
8000 Mbps	$25,363.80	$23,058.00	$20,752.20	$0.00	Copper or Fiber
9000 Mbps	$28,112.70	$25,557.00	$23,001.30	$0.00	Copper or Fiber
10000 Mbps	$30,746.10	$27,951.00	$25,155.90	$0.00	Copper or Fiber

- Symmetrical Internet service delivered over fiber
- Pricing listed for 2, 3 & 5 Year Terms
- Pricing based on two elements – 1) EDI Network Interface 2)EDI Bandwidth
- Site survey required and is based on serviceability in Comcast footprint
- Additional special construction charges may apply
- Domain Name System: Includes primary and secondary DNS service. Assistance provided to transfer existing domain names
- BGP Routing Protocol (optional): Supports multi-homing with load balancing for faster, more efficient routing between networks
- Web-Based Reporting: Connectivity statistics with daily, seven-day, and 30-day reports viewed through our secure Web portal

Contract Pricing For Ethernet Network Services (ENS)

Ethernet Network Services (A custom Ethernet network from Comcast) allows you to seamlessly link multiple locations together and exchange data at up to 1 gigabit per second.)

Speed	2 Year	3 year	5 Year	Installation	Interface Type
10 Mbps	$520.10	$469.00	$ 422.10	$ 0.00	10/100
20 Mbps	$582.40	$525.00	$ 472.50	$ 0.00	10/100
30 Mbps	$636.30	$574.00	$ 516.60	$ 0.00	10/100
40 Mbps	$698.60	$630.00	$ 567.00	$ 0.00	10/100
50 Mbps	$753.20	$679.00	$ 611.10	$ 0.00	10/100
60 Mbps	$815.50	$735.00	$ 661.50	$ 0.00	10/100
70 Mbps	$870.10	$784.00	$ 705.60	$ 0.00	10/100
80 Mbps	$932.40	$840.00	$ 756.00	$ 0.00	10/100
90 Mbps	$986.30	$889.00	$ 800.10	$ 0.00	10/100
100 Mbps	$1,048.60	$945.00	$ 850.50	$ 0.00	10/100
200 Mbps	$1,503.60	$1,358.00	$ 1,222.20	$ 0.00	GigE
300 Mbps	$1,573.60	$1,421.00	$ 1,278.90	$ 0.00	GigE
400 Mbps	$1,643.60	$1,484.00	$ 1,335.60	$ 0.00	GigE
500 Mbps	$1,713.60	$1,547.00	$ 1,392.30	$ 0.00	GigE
1000 Mbps	$2,063.60	$1,862.00	1,675.80	$ 0.00	GigE

- Pricing based on 2, 3 and 5 year term length
- Basic COC
- ENS Pricing based on 2 elements – 1)Ethernet Network Interface 2) ENS Basic Network Bandwidth
- Site survey required and based on serviceability in Comcast footprint
- Additional special construction charges may apply
- ENS comprises at least 3 sites
- Any-to-Any Connectivity: Any site can send traffic to any other site within your network through a single Ethernet interface
- Class of Service Aware: Dynamic traffic delivery through the Comcast network with up to three different performance levels
- VLAN Transparency: VLAN configurations can be changed within your network without the need to coordinate with Comcast

- Web-Based Reporting: Connectivity statistics for the previous day or for the previous seven-day or 30-day period can be viewed through our secure Web portal

Contract Pricing For Ethernet Private Line Service (EPL)

Ethernet Private Line (EPL) service provides one Ethernet virtual connection between 2 customer locations.

Speed	2 Year	3 year	5 Year	Installation	Interface Type
10 Mbps	$557.90	$504.00	$453.60	$ 0.00	10/100
20 Mbps	$604.10	$546.00	$491.40	$ 0.00	10/100
30 Mbps	$658.70	$595.00	$535.50	$ 0.00	10/100
40 Mbps	$705.60	$637.00	$573.30	$ 0.00	10/100
50 Mbps	$751.80	$679.00	$611.10	$ 0.00	10/100
60 Mbps	$806.40	$728.00	$655.20	$ 0.00	10/100
70 Mbps	$853.30	$770.00	$693.00	$ 0.00	10/100
80 Mbps	$900.20	$812.00	$730.80	$ 0.00	10/100
90 Mbps	$946.40	$854.00	$768.60	$ 0.00	10/100
100 Mbps	$1,001.00	$903.00	$812.70	$ 0.00	10/100
200 Mbps	$1,887.90	$1,708.00	$1,537.20	$ 0.00	GigE
300 Mbps	$1,957.90	$1,771.00	$1,593.90	$ 0.00	GigE
400 Mbps	$2,027.90	$1,834.00	$1,650.60	$ 0.00	GigE
500 Mbps	$2,097.90	$1,897.00	$1,707.30	$ 0.00	GigE
1000 Mbps	$2,447.90	$2,212.00	$1,990.80	$ 0.00	GigE

- Pricing based on 2, 3 and 5 year term length
- Basic COS
- EPL Pricing based on 2 elements – 2 - Ethernet Network Interface and EPL- Basic Network Bandwidth
- Site survey required and based on serviceability in Comcast footprint
- Additional special construction charges may apply
- Ability to use any VLAN or Ethernet control protocol

Contract Pricing For Ethernet Virtual Private Line Service (EVPL)

Ethernet Virtual Private Line provides an Ethernet Virtual Connection (EVC) between two customer locations, replacing frame relay or ATM services while also supporting Service Multiplexed User Network Interfaces (UNI), allowing for a single physical connection to customer premise equipment for multiple virtual connections.

Speed	2 Year	3 year	5 Year	Installation	Interface Type
100MB Port	$115.50	$105.00	$94.50	$0.00	10/100
GIG Port	$500.50	$455.00	$409.50	$0.00	GigE
10 GIG Port	$1,575.00	$1,400.00	$1,260.00	$0.00	10 GigE
10 Mbps	$404.60	$364.00	$327.60	$ 0.00	10/100
20 Mbps	$466.90	$420.00	$378.00	$ 0.00	10/100
30 Mbps	$520.80	$469.00	$422.10	$ 0.00	10/100
40 Mbps	$583.10	$525.00	$472.50	$ 0.00	10/100
50 Mbps	$637.70	$574.00	$516.60	$ 0.00	10/100
60 Mbps	$700.00	$630.00	$567.00	$ 0.00	10/100
70 Mbps	$754.60	$679.00	$611.10	$ 0.00	10/100
80 Mbps	$816.90	$735.00	$661.50	$ 0.00	10/100
90 Mbps	$870.80	$784.00	$705.60	$ 0.00	10/100
100 Mbps	$933.10	$840.00	$756.00	$ 0.00	10/100
200 Mbps	$1,003.10	$903.00	$812.70	$ 0.00	GigE
300 Mbps	$1.073.10	$966.00	$869.40	$ 0.00	GigE
400 Mbps	$1,143.10	$1,029.00	$926.10	$ 0.00	GigE
500 Mbps	$1,213.10	$1,092.00	$982.80	$ 0.00	GigE
1000 Mbps	$1,563.10	$1,407.00	$1,266.30	$ 0.00	GigE

- Pricing based on 2, 3 and 5 year term length
- Basic COS
- EVPL Pricing based on 2 elements – 2 - Ethernet Network Interface and EVPL- Basic Network Bandwidth
- Site survey required and based on serviceability in Comcast footprint
- Additional special construction charges may apply
- Ability to use any VLAN or Ethernet control protocol

Contract Metro-E Pricing For Ethernet Over HFC

Ethernet Dedicated Internet (EDI):

Speed	24 Month	36 Month	60 Month	Installation(NRC)	Hand-off
2 Mbps	$ 272.30	$245.00	$220.50	$0.00	Coax
4 Mbps	$ 436.10	$ 392.00	$352.80	$0.00	Coax
6 Mbps	$ 590.80	$ 532.00	$478.80	$0.00	Coax

Ethernet Private Line (EPL):

Speed	24 Month	36 Month	60 Month	Installation (NRC)	Hand-off
Port	$115.50	$105.00	$94.50	$0.00	Coax
2 Mbps	$ 62.30	$56.00	$50.40	$0.00	Coax
4 Mbps	$132.30	$119.00	$107.10	$0.00	Coax
6 Mbps	$194.60	$175.00	$157.50	$0.00	Coax

Ethernet Virtual Private Line (EVPL):

Speed	24 Month	36 Month	60 Month	Installation (NRC)	Hand-off
Port	$115.50	$105.00	$94.50	$0.00	Coax
2 Mbps	$109.20	$98.00	$88.20	$0.00	Coax
4 Mbps	$217.70	$196.00	$176.40	$0.00	Coax
6 Mbps	$280.00	$252.00	$226.80	$0.00	Coax
GIG Port	$500.50	$455.00	$409.50	$0.00	Fiber
GIG	$1,563.10	$1,407.00	$1,266.30	$0.00	Fiber

- Port is required for Head-End

- In the event that the state orders off-net services, pricing for said off-net services will be negotiated at the time of the order.
- ENS Pricing based on 2 elements – 1)Ethernet Network Interface 2) ENS Basic Network Bandwidth
- Pricing for EPL and EVPL based on 3 elements - 1) Ethernet Network Interface (port) "A" location 2) Ethernet Network Interface (port) at "Z" location 3)Basic Network Bandwidth
- Site survey required and based on serviceability in Comcast footprint
- Additional special construction charges may apply
- Regular Cisco DPC3008 cable modem with Business Services over DOCSIS (BSOD) attributes.
    - Not rack mountable
    - Single power supply
    - Single RJ45 UNI
    - Boot file pre-configured with auto-negotiation
- Only one UNI is permitted per Cable Modem.
- Only one EVC is permitted per HFC UNI. Therefore, Comcast encapsulates all traffic into one (1) provider VLAN tag. Customer may have multiple VLAN's delivered to same destination over the single provider VLAN tag.
- HFC network will not honor any CoS value other than Basic.
- Frame sizes may not exceed 1518 MTU size (1522 with single VLAN tag). All frames that exceed specification shall be dropped.
- Utilization information not currently available in SevOne for EoHFC via customer web portal.
- Only default route is permitted with BGP.

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

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

NOTICE OF CONTRACT NO. 071B2200126

between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Comcast Business Communications, LLC** **1701 JFK Boulevard** **Philadelphia, PA 19103** **Email:** Kelly_locke@cable.comcast.com	**TELEPHONE 517-334-9138** **Kelly Locke** **CONTRACTOR NUMBER/MAIL CODE** **BUYER/CA (517) 335-0462** **Christine Mitchell**
Contract Compliance Inspector: Jim Bowen (517) 241-9076 **Commercial Broadband, Cable TV, and Basic Internet - Statewide**	
CONTRACT PERIOD: 5 yrs. + 4, 1-yr options **From:February 8, 2012** **To: February 7, 2017**	
TERMS **Net 45**	**SHIPMENT** **N/A**
F.O.B. **N/A**	**SHIPPED FROM** **N/A**
ALTERNATE PAYMENT OPTIONS: ☒ P-card ☒ Direct Voucher (DV) ☐ Other	
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS HEREBY EXTENDED TO ALL LOCAL UNITS OF GOVERNMENT.

The terms and conditions of this Contract are attached.

Estimated Contract Value: $2,875,000.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

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

CONTRACT NO. 071B2200126

between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Comcast Business Communications, LLC** **1701 JFK Boulevard** **Philadelphia, PA 19103** **Email:** Kelly_locke@cable.comcast.com	**TELEPHONE 517-334-9138** **Kelly Locke** **CONTRACTOR NUMBER/MAIL CODE** **BUYER/CA (517) 335-0462** **Christine Mitchell**

Contract Compliance Inspector: Jim Bowen (517) 241-9076
Commercial Broadband, Cable TV, and Basic Internet - Statewide

CONTRACT PERIOD: 5 yrs. + 4, 1-yr options **From: February 8, 2012** **To: February 7, 2017**

TERMS **Net 45**	**SHIPMENT** **N/A**
F.O.B. **N/A**	**SHIPPED FROM** **N/A**

ALTERNATE PAYMENT OPTIONS:

☒ P-card ☒ Direct Voucher (DV) ☐ Other

MINIMUM DELIVERY REQUIREMENTS
N/A

MISCELLANEOUS INFORMATION:
The terms and conditions of this Contract are those of RFP-CM-071I1300248, this Contract Agreement and the vendor's quote dated 9/12/2011. 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: $2,875,000.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry RFP-CM-071I1300248 posted on Bid4Michigan. Orders for delivery will be issued directly by the Department of Technology, Management and Budget through the issuance of a Purchase Order Form.

All terms and conditions of the Request for Proposal are made a part hereof.

FOR THE CONTRACTOR:	FOR THE STATE:
Comcast Business Communications, LLC	
Firm Name	Signature
	Jeff Brownlee, Chief Procurement Officer
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	Date
Date	

STATE OF MICHIGAN
Department of Technology, Management and Budget
Procurement

Comcast Business Communications, LLC
Contract No. 071B2200126
(Commercial Broadband & Cable TV)

Buyer Name: Christine Mitchell
Telephone Number: (517) 335-0462
E-Mail Address: mitchellc4@michigan.gov

Table of Contents

Article 1 – Statement of Work (SOW) ***15***

1.0 Project Identification *15*

1.1 Scope of Work and Deliverables *17*

A. Specific Technical and Business Requirements ***20***

A. Project Plan ***25***

B. Invoice ***26***

C. Location and Work Space ***26***

D. Travel ***26***

E. Documentation ***26***

F. Maintenance and Support ***26***

1.2 Roles and Responsibilities *30*

1.3 Project Progress *33*

1.4 Project Management *34*

1.5 Acceptance *35*

1.6 Compensation and Payment *35*

1.7 Additional Terms and Conditions Specific to this SOW *37*

Article 2, Terms and Conditions ***38***

2.000 Contract Structure and Term *38*

2.010 Consents and Approvals *39*

2.020 Contract Administration *39*

2.030 General Provisions *43*

2.040 Financial Provisions *44*

2.050 Taxes *46*

2.060 Contract Management *46*

2.070 Subcontracting by Contractor *48*

2.080 State Responsibilities *49*

2.090 Security *50*

2.100 Confidentiality *51*

2.110 Records and Inspections *52*

2.120 Warranties *53*

2.130 Insurance *56*

2.140 Indemnification *58*

2.150 Termination/Cancellation *60*

2.160 Termination by Contractor *63*

2.170 Transition Responsibilities *63*

2.180 Stop Work *64*

2.190 Dispute Resolution *65*

2.200 Federal and State Contract Requirements *66*

2.210 Governing Law *67*

2.220 Limitation of Liability *68*

2.230 Disclosure Responsibilities 68
2.240 Performance 69
2.250 Approval of Deliverables 72
2.260 Ownership 75
2.270 State Standards 76
2.280 Extended Purchasing 77
2.290 Environmental Provision 77
2.300 Deliverables 79
2.310 Software Warranties 79
2.320 Software Licensing 80
2.330 Source Code Escrow 81
Article 4 – Required Bidder Information 82
4.0 Bidder Information 82
4.1.1 Company Information 82
4.1.2 Bidder Contact During RFP Process 82
4.1.3 Authorized Contract Signatory 82
4.1.4 Subcontractors 82
4.1.5 Former State Employees 82
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online. 82
4.1.6 Use of Other Sources as Subcontractors 83
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online. 83
Community Rehabilitation Organizations: *Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.* 83
4.1.7 Services Needed in Performance – Principal Place of Business 83
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online. 83
4.1.8 Subcontractors Needed in Performance of Contract – Principal Place of Business 83
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online. 83
4.1.9 Prior Experience / Company References 83
4.1.10 Contract Performance 83
4.1.11 Disclosure of Litigation 83
4.1.12 Business Owned by Qualified Disabled Veteran 84
Attachment A - Service Regions
Attachment B - SLA's /Credit Policies
Attachment C - Commercial Broadband Cost Model
Attachment D - Cable TV Cost Model
Attachment E - Basic Internet Cost Model
Attachment F - Edited Comcast Master Service Agreement
Attachment G - Separate Document - Product Catalog, Network Details

Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

The State of Michigan (State), through the Michigan Department of Technology, Management and Budget (DTMB), issues this Contract to provide:

1. Commercial Broadband Services for operation of a Virtual Private Network (VPN).
2. Basic Internet Access service, and/or
3. Cable Television Services.

Contractor may provide Customer Premises Equipment (CPE), together with installation and management services, for demarcation network interface devices required for delivery of services. The State considers a broadband modem as a demarcation network interface device, but a phone, router or key system is not.

The requested services must be made available, to all State Agencies, MiDeal Partners, and State home office users. Any MiDeal participant will work directly with the Contractor for all service and billing related issues.

This Contract has a base contract period of five years, with four, one-year extensions possible. Renewal of the contract will be at the sole discretion of the State and will be based upon the acceptable performance of the selected Contractor(s) as determined by the State.

The information provided in this Contract is based on past usage, and may fluctuate in either direction. The State does not guarantee it will buy any specific item or any total amount. All contracts awarded shall have no minimum guarantees of any business.

This is not an exclusive contract. Where the State is unable to procure through this contract, or has an existing contract for purchase of the services or products, the State reserves the right to purchase services or products through other contracting vehicles.

1.002 BACKGROUND

DTMB was created in part to improve the management of information technology investments. Among other enumerated items, DTMB is leading State efforts to re-engineer the State's information technology infrastructure, and to coordinate development of a unified Executive Branch technology plan, with the goal of achieving the use of common technology across the Executive Branch.

The rapidly changing technology and the increasing availability of commercial broadband services have prompted the State to expand the use of these technologies to State Agencies and their increasingly mobile workforce. The State is seeking higher capacity data network services that are affordable, reliable, and secure.

1.003 State Standards

Contractors are advised that the State has standards and guidelines that have been developed over the years. Contractors are expected to follow these requirements.

Enterprise IT Policies, Standards and Procedures:
http://www.michigan.gov/dmb/0,1607,7-150-56355---,00.html and
http://www.michigan.gov/dmb/0,1607,7-150-56355-107739--,00.html

All software and hardware items provided by the Contractor must run on and be compatible with the DTMB Standard Information Technology Environment. Additionally, the SOM must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by DTMB. The Contractor must request, in writing, approval to use non-standard software development tools, providing justification for the requested change and all costs associated with any change. The SOM's Project Manager and DTMB must approve any tools, in writing, before use on any information technology project.

Enterprise IT Security Policy and Procedures:
http://www.michigan.gov/dmb/0,1607,7-150-9131_9347---,00.html#1300INFSTDSPLNNG and http://www.michigan.gov/cybersecurity

The SOM's security environment includes:

- DTMB Single Login.
- DTMB provided SQL security database.
- Secured Socket Layers.
- SecurID. (SOM Security Standard for external network access and high risk Web systems)

IT Strategic Plan:
http://www.michigan.gov/itstrategicplan

IT eMichigan Web Development Standard Tools:
http://www.michigan.gov/documents/Look_and_Feel_Standards_2006_v3_166408_7.pdf

IT Enterprise Standard Products:
Specific products are identified as Enterprise IT standards for the SOM. All product standards are reviewed, at a minimum, every two years. The currently standard products are found at:
http://www.michigan.gov/dmb/0,1607,7-150-56355---,00.html.

The State Unified Information Technology Environment (SUITE):
Includes standards for Project Management Methodology (PMM) that must be followed:
http://www.michigan.gov/suite/0,1607,7-245-46056---,00.html

Industry standards:

1. Institute of Electrical and Electronics Engineers, Inc. (IEEE).
2. Building Industry Consulting Services International, Inc. (BICSI) Specifications.

Project Specific Acronyms/Definitions

CPE	Customer Premises Equipment
Demarcation point	Where the carrier network or network equipment ends and the customer network begins
DOCSIS	Data Over Cable Service Interface Specification
DSL	Digital Subscriber Loop Services
IPSec	IP Security: an encryption standard
ISDN	Integrated Services Digital Network
LAN	Local Area Network
LATA	Local Access and Transport Area: geographic boundary established at the breakup of AT&T to define the boundaries between local exchange and inter-exchange carriers
Inter-LATA	All calls originated and terminated in different LATA's
Intra-LATA	All calls originated and terminated in the same LATA
MAN	Metropolitan Area Network
MPLS	MultiProtocol Label Switching
MiDeal Partners	The Extended Purchasing Partners for the State of Michigan
MTTR	Mean Time To Repair
Reliable	Minimum 99.75% uptime per site
Secure	Meeting or exceeding State of Michigan data network security standards
VPN	Virtual Private Network
WAN	Wide Area Network

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

Contractor will provide the following, including all labor, materials, transportation, equipment and activities for selling, providing, supporting and maintaining the services:

1. Commercial Broadband Services as required for State Agencies.

2. Cable TV Services.
    a. Parental controls on Cable TV Services.
3. Services for furnishing, installing, interfacing, operating, monitoring the services.
4. Maintenance and support.
5. Documentation to include service operation and repair manuals updated at least annually.
6. Optionally a managed VPN service.
7. Optionally providing Customer Premise Equipment (CPE) equipment, with price including delivery, installation, maintenance and support services.
8. Optional integration of voice, video, and data services.

Comcast Business Communications, LLC will follow the IN SCOPE in this contract.

1.102 OUT OF SCOPE

Reserved

1.103 ENVIRONMENT

Overview of Existing State Operating Environments
Information regarding the State's information technology architecture and standards may be found at:

http://www.michigan.gov/dmb/0,1607,7-150-56355---,00.html and
http://www.michigan.gov/dmb/0,1607,7-150-56355-107739--,00.html.

The physical interface to the CPE router will be 100meg Ethernet full duplex or fiber optic cable as needed for services requested.

The State has a very complex network. The network has different perimeter entry points, and an internal network made up of a large WAN, a large MAN, and 3 hosting centers located in the Lansing metropolitan area. The following describes the Network environment:

- **Vendor Extranet**: This zone allows vendors to connect to the State network via either point-to-point WAN circuits, or Gateway-to-Gateway VPN over the Internet. The State currently allows vendors to place their network equipment on our premises, or they can terminate their connection at our demarcation at an AT&T facility. This zone is separated from the State network with a firewall. This access is application only; remote control access is not allowed.

- **Local Government Extranet**: This zone allows local government entities access to applications on the State network. This is provided by the provisioning of separate WAN circuits on the State WAN cloud. This zone is separated from the State network with a firewall.

- **Lansing Metropolitan Area Network (LMAN)**: This is the State's high-speed backbone network utilized by State employees to access State resources and Internet resources. The backbone is made up of redundant fiber links capable of transporting 10GBPS of traffic. Several State buildings, as well as the State's 3 hosting centers, are also connected to the backbone through a distribution layer network.

- **Agency Internet DMZ**: This zone is for public-facing server access to the Internet. This zone is firewall protected from the Internet, as well as from the LMAN. The state currently has Internet services provided by several ISPs to provide redundancy.

- **State WAN**: This is the remote office connectivity solution for the State. It is made up of a private network managed by AT&T. Connectivity of sites on the WAN are T1 and higher.
- **State Gateway-to-Gateway VPN**: This is an IPSEC VPN service offered by the State to allow remote State offices that do not require the availability/reliability of a dedicated State WAN circuit.

- **Client to Gateway VPN**: Since remote control access is not allowed over the vendor extranet, the State has developed this service as the approved method of access to manage State systems remotely. The service involves the use of the Internet, VPN-client software to provide the encryption over the Internet, and a 2-factor authentication method (SECURID).

- **State Data Communications Network** is composed of the Intranet, a secured, internal network, and an external, unsecured network, which is connected to the Internet. This network is comprised of necessary routing and switching hardware, software, wiring networks, connecting hub hardware, network management systems and the State firewall.

- **Intranet** is the secured, internal network inside the firewall. It includes the core Lansing Metropolitan Area Network (LMAN), a Wide Area Network (WAN) connecting out state locations, and agency local area networks, which are connected to either LMAN or WAN.

- **Unsecured network** is an optical fiber network in greater Lansing, outside the firewall. It radiates from a switched Ethernet hub and is connected to the worldwide Internet.

- **Intranet servers** conform to World Wide Web standards and are connected to the State Intranet, which is the secured, internal network segment located inside the firewall system.

- **Internet servers** conform to World Wide Web standards and are connected to the State unsecured network.

1.104 WORK AND DELIVERABLE

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

State Standard Requirements

Comcast Business Communications LLC understands and will comply with applicable State-developed standard requirements for information technology projects. Reference section 1.003 (State Standards).

I. Provide Commercial Broadband Services to State agencies and MiDeal partners as requested.

A. *Specific Technical and Business Requirements*

1. For VPN, data traffic will be delivered to the State's VPN Gateway in the State's DMZ. Contractor will deliver the data traffic to the State's VPN Gateway in the State's DMZ. **Comcast Business Communications LLC understands and will comply if Comcast services are selected.**

2. Services and equipment must be compliant with all telecommunications industry standards including, at a minimum, Federal Communications Commission (FCC), Michigan Public Services Commission (MPSC), IEEE, and BICSI. **Comcast Business Communications LLC understands and will comply.**

3. Commercial Broadband - The minimum downlink speed is 2Mb and the minimum uplink speed is 1Mb. The preferred minimum uplink is 2Mb. **Comcast Business Communications LLC understands and will comply.**

4. Design diagrams for connections requiring Fiber Optic delivery of speeds of 2.0/2.0 mbps or grater will be made available on an individual case basis. **Comcast Business Communications LLC understands and will comply.**

5. Contractor will provide any IP address requirements for CPE equipment at the remote sites if required for new Contractor-supplied equipment. **Comcast Business Communications LLC understands and will comply.**

6. Contractor will detail for each identified State site the:
    a. Current data network capacity per location
    b. Expansion capacity
    c. Capacity limits
    d. Cost of expansion
    e. CPE equipment required for each speed and/or type of service

7. For services provided, the technical details will meet or exceed those stated for local franchise services provided in FCC Part 76. **Comcast Business Communications LLC understands and will comply.**

8. Consistent throughput - Contractor must provide sufficient capacity in the provider's backbone network facilities and equipment to insure consistent throughput.

    a. Contractor will monitor and provide usage statistics for monthly review by the State. **Comcast Business Communications LLC understands and will comply. Reports are available upon request.**

9. Availability – Service will be available monthly with an uptime of greater than 99.75%.
    a. Contractor will monitor and provide for monthly reports on availability for review by the State. **Comcast Business Communications LLC understands the product technical descriptions can be viewed on the Comcast Network Service Proposal. Currently all Ethernet based products have an availability of 99.99%. Overall network availability for non Ethernet products is currently 99.97%.**

10. Low and consistent latency is required with minimal packet loss.
    a. Latency must be less than or equal to 150 milliseconds.
    b. Packet loss less than or equal to 0.4% per site.
    c. Contractor will monitor and provide latency and packet loss reports monthly for review by the State upon request.

Comcast Business Communications LLC understands;product technical descriptions are in the Comcast Network Service Proposal. Reports are available upon request.

11. Maintenance and Support
    a. For normal Agency business operations, Contractor will provide a Mean Time to Repair (MTTR) of 4 hours or less during the normal business hours of a location. **Comcast Business Communications LLC understands and will comply.**
    b. For identified critical Agency business locations, for example, Michigan State Police posts will require MTTR of 4 hours on a 7x24x365 basis. **Comcast Business Communications LLC understands and will comply.**
    c. Contractor must describe service and support capabilities for the Upper and Lower peninsulas. **Comcast Business Communications LLC does not service the Upper peninsulas.**
    d. A single point of contact must be available for the State trouble calls. **Comcast Business Communications LLC understands and will provide a 24/7 toll-free telephone number to the network operation center. The NOC has a standard 3-tier escalation configuration with automatic escalation intervals.**
    e. Contractor will provide a service center at an identified location with a toll-free telephone number to contact 7x24x365 for notification of problems and dispatch of qualified technician. **Comcast Business Communications LLC understands and will provide a 24/7 toll-free telephone number to the network operation center.**
        i. Contractor must also accept problem reporting by email. **Currently not available. Trouble shooting reporting must be done by opening up a trouble ticket with the NOC and working with engineering staff.**
    f. Contractor will provide effective procedures for problem resolution, including those related to customer-owned equipment.
        i. Contractor will provide an escalation procedure for outages that exceed 4 hours. **Comcast Business Communications LLC understands and will provide a complete escalation list.**
    g. Contractor will perform maintenance on Commercial Broadband Services equipment during the least intrusive times as determined by State site requirements and length and complexity of the maintenance. **Comcast Business Communications LLC understands. Network operation and escalation procedures are in the Comcast Network Service Proposal.**

12. Option – Customer Premises Equipment – Contractor may provide rental or purchase options for edge devices. If different equipment is required for different speed and/or service, these requirements must be identified. If State ownership of the edge devices impacts service commitments or problem resolution, these impacts must be described. **Comcast Business Communications LLC understands and will comply.**

13. Order Process and Installation
    - **a.** Contractor must provide and identify a single point of contact for new orders. **Comcast Business Communications LLC has supplied a list of the Account Team assigned to the state within the Comcast Network Service Proposal.**
    - **b.** Any services to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. **Comcast Business Communications LLC understands and will comply.**
    - **c.** Commercial Broadband Services Orders will be placed through DTMB Telecommunications for their review, approval and coordination. **Comcast Business Communications LLC understands and will comply.**
    - d. Contractor must meet agreed upon order processing and installation times pursuant to Service Level Agreements (SLA)'s for delivery time frames and network availability. Vendors to provide samples of current SLA's with bid response. **Comcast Business Communications LLC understands and will mutually agree upon SLA's that both parties can work with.**
    - e. Contractor must provide a system allowing the State to track the State's orders on-line or via phone. **Comcast Business Communications LLC understands. Online order tracking is currently not an option.**
    - f. The State may cancel service by 30-day written notice to the Contractor via fax, email, or postal mail. **Comcast terms and conditions will govern any final agreement between the parties, except to the extent required/ prohibited by law or mutually negotiated after contract award.**

II. Cable Television Services

A. *Specific Technical and Business Requirements*

1. Contractor will provide basic Cable TV Services offerings. **Comcast Business Communications LLC can provide two options of Cable TV service. Public and Private view will have separate channel lineups available.**

2. Parental controls must be provided with the Cable TV Services and Pay-Per-View service must be blocked. **Comcast Business Communications LLC understands and will comply.**

3. Contractor must provide and install the drop wiring for each site necessary to provide services.

    a. Wiring must be hung neatly in a State-approved location following State Standards.
    b. Contractor must supply all ancillary parts, cable ends, installation tools, wire, wire hangers, screws etc. for a complete turnkey distribution system.

Comcast Business Communications LLC understands and will comply.

4. Installation of all equipment shall meet current technical standards applicable to the cable industry and must be in accordance with the latest requirements of the National Electrical Code, EIA/TIA standards, state and local codes, ordinances and regulations of any other governing body having jurisdiction**. Comcast Business Communications LLC understands and will comply.**

5. Maintenance and Support – Contractor will provide maintenance and support for the Cable TV services

   Contractor shall respond to a service request for assistance within twenty-four (24) normal business hours. **Comcast Business Communications LLC understands and will comply.**

6. Order Process and installation

   Contractor must provide and identify a single point of contact for new orders. **Comcast Business Communications LLC understands and will comply.**

7. Any services to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee.

   a. Contractor must provide and identify a single point of contact for new orders.
   Comcast Business Communications LLC has supplied a list of the Account Team assigned to the state within the Comcast Network Service Proposal.

   b. Any services to be furnished under this Contract shall be ordered by issuance of written Purchase Order/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee.
   Comcast Business Communications LLC understands and will comply.

   c. Contractor must meet agreed upon order processing and installation times. The installation process must be described by the Contractor, including site notification, dispatch location and timeframe of installation.
   Comcast Business Communications LLC understands and will comply.

   d. Contractor must provide a system allowing the State to track the State's orders on-line or via phone.
   Comcast Business Communications LLC understands. Online order tracking is currently not an option.

   e. The State may cancel service by 30-day written notice to the Contractor via fax, email, or postal mail.
   Comcast terms and conditions will govern any final agreement between the parties, except to the extent required/ prohibited by law or mutually negotiated after contract award.

III. Basic Internet Access Services

Consumer level access to the Internet from State agencies without VPN.

A. Specific Technical and Business Requirements

1. Contractor will provide Basic Internet Access Service offerings.
   Comcast Business Communications LLC understands and will comply.

2. Contractor must provide and install the drop wiring for each site necessary to provide services.
   a. Wiring must be hung neatly in a State-approved location following State Standards.
   b. Contractor must supply all ancillary parts, cable ends, installation tools, wire, wire hangers, screws etc. for a complete turnkey distribution system.
   Comcast Business Communications LLC understands and will comply.

3. Installation of all equipment shall meet current technical standards applicable to the cable industry and must be in accordance with the latest requirements of the National Electrical Code, EIA/TIA standards, state and local codes, ordinances and regulations of any other governing body-having jurisdiction.
   Comcast Business Communications LLC understands and will comply.

4. Maintenance and Support – Contractor will provide maintenance and support for the Basic Internet Access services
   a. Contractor shall respond to a service request for assistance within twenty-four (24) normal business hours.
   Comcast Business Communications LLC understands and will comply.

5. Order Process and installation
   a. Contractor must provide and identify a single point of contact for new orders.
   Comcast Business Communications LLC has supplied a list of the Account Team assigned to the state within the Comcast Network Service Proposal.

   b. Any services to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee.
   Comcast Business Communications LLC understands and will comply.

   c. Contractor must meet agreed upon order processing and installation times. The installation process must be described by the Contractor, including site notification, dispatch location and timeframe of installation.
   Comcast Business Communications LLC understands and will comply.

   d. Contractor must provide a system allowing the State to track the State's orders on-line or via phone.
   Comcast Business Communications LLC understands. Online order tracking is currently not an option.

   e. The State may cancel service by 30-day written notice to the Contractor via fax, email, or postal mail.

IV. Optional Managed Virtual Private Network Service

Not offered by Comcast.

V. Services

A. *Project Plan*

Within five (5) working days of the award of the Contract, the Contractor will work with the State to develop an agreed upon project plan of tasks and schedule, which may include:

1. Contractor's project organizational structure.
2. Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
3. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
4. The Contractor agrees that the approved project plan shall become incorporated as part of the Contract and Scope of Services.
5. The project plan will serve as the State's measurement tool, outlining all tasks, their delivery dates, together with testing periods and implementation dates.

Comcast Business Communications LLC understands and will comply.

Solution Provisioning and Project Plan

Typical site installations may take anywhere from 90 to 180 days for completion. Throughout the duration of the project a dedicated Comcast account team will be in contact providing status and answering any questions you may have.

Overall Project Milestones

1. Detailed Design review
   - 1.1. Field Surveys Performed
   - 1.2. Detailed Network Design
   - 1.3. Detailed Network Equipment
   - 1.4. Detailed Construction Costs
   - 1.5. Proposal Pricing
2. Contract Signature
   - 2.1. Final Proposal Presented
   - 2.2. Contract Signature
   - 2.3. Order Executed
3. Network Implementation
   - 3.1. Fiber Construction
   - 3.2. Equipment Testing
   - 3.3. Equipment Installation
   - 3.4. Circuit Testing
   - 3.5. As-Built Maps / Diagrams Created
4. Network Testing and Customer Acceptance
   - 4.1. Network Tests
   - 4.2. Customer Acceptance
   - 4.3. Network Activation
5. Billing
   - 5.1. First invoice receipt

B. *Invoice*

1. Contractor will submit an accurate, single, bill for all sites where the Contractor is providing service by service type (i.e. Commercial Broadband Services and/or Cable TV Services).
2. The invoice must be inclusive of all services, whether provided by Contractor, another carrier or a subcontractor.
3. Contractor will prorate billing for services to the date of installation/disconnect.
4. The invoice must be available with paper and electronic detail of services provided for each site.
   a. Electronic detail must be in an Excel spreadsheet format.
   b. The billing process, billing period, and sample billing report will need to be provided in the bid response. Describe the billing correction, adjustment, resolution process and timing for billing corrections.
5. A single point of contact must be provided for all billing inquiries.
   a. The contact must have knowledge of the State's services.

Comcast Business Communications LLC understands; billing systems will be different for the CATV and data services.

C. *Location and Work Space*

1. The Contractor will work out of their facility.
2. The State will not provide workspace for the Contractor except in the event required for services under the Contract.

Comcast Business Communications LLC understands and will comply.

D. *Travel*

No travel or expenses will be reimbursed, unless travel is required by the State and approved in advance by the State's Project Manager.

Comcast Business Communications LLC understands and will comply.

1.

E. *Documentation*

Contractor will provide service operation and repair manuals updated at least annually.

Comcast Business Communications LLC understands and will comply. Available upon request.

F. *Maintenance and Support*

1. The Contractor will provide support to address any problems with services and equipment, during the Agency specified business hours.
2. All maintenance will be performed by qualified personnel.
3. The Contractor will provide backup maintenance resources.
4. The Contractor will provide for escalation of maintenance issues to ensure critical issues are resolved.
5. The Contractor shall respond to the telephone requests for maintenance service, within four hours, for calls made at any time.

Comcast Business Communications LLC understands and will comply.

Comcast Escalation Procedures

Business Hours

Priority	Shift Lead	Manager	Director	Vice-President
1	15 Mins	30 Mins	1 Hour	3 Hours
2	1 Hour	2 Hours	4 Hours	12 hours
3	2 Hours	4 hours	12 Hours	-

Non-Business Hours

Priority	Shift Lead	Manager	Director	Vice-President
1	1 Hour	2 Hours	6 hours	8 hours
2	2 hours	4 Hours	12 Hours	-
3	6 hours	12 Hours	-	-

Priority Definition

1) Total outage; multiple customers or multiple locations.

2) Total outage, single customer/single location, or partial outage of multiple customers or multiple locations

3) Partial outage, single customer or location

Service Level Objectives

In the event of a service interruption, Comcast shall use commercially reasonable efforts to respond to the service interruption and to clear the service interruption within the time frames set forth below. Comcast shall notify customer that Comcast has dispatched its personnel to effect restoration and repair and shall inform customer when service has been restored.

Category	Objective
Network Availability	99.97%
Mean Time to respond telephonically to call	30 minutes
Mean time to restore equipment	4 hours
Mean time to restore fiber	6 hours

Operations

Comcast provides high-quality service and effective maintenance of our network and customer base in several key business areas. These include: Network Operations and Field Operations. Comcast strongly suggests that all personnel involved in the decision process visit the network operations facilities of each of the bidders as part of the evaluation process.

Network Operations

The Network Operations organization provides outstanding network maintenance, which includes surveillance, trouble-shooting, and resolution through its state-of-the-art 24 x 7 x 365 Network Operations Center (NOC) opened in July 2001 at our corporate headquarters in Mt. Laurel, New Jersey. The NOC continuously monitors the network equipment, service health, and performance of the Comcast network, responds to network events and service degradations, dispatches local field technicians, and informs customers of service issues, in many cases before the customer has noticed the problem. The Network Operations group also provides technical support and responds to trouble calls from network service customers including carriers, TLS and Native ATM customers, and voice product customers, through a staff of Technical Support Representatives (TSRs). The Comcast NOC also operates a 24 x 7 x 365 Technical Customer Support helpdesk that responds to calls for all of Comcast services.

The NOC maintains a staff of engineers and technicians that are trained in an array of networks, elements, and technologies in the Comcast network (Ethernet, ATM, Frame Relay, SONET, T-1/T-3, local and long distance telephony, Internet Access, and LAN/WAN based services). Comcast engineers and technicians have earned many industry certifications, including: CCIE (Cisco Certified Internetwork Expert), Cisco Certified Network Associate (CCNA), Cisco Certified Network Professional (CCNP), Microsoft Certified Systems Engineer (MCSE), A+, Network+, and other certifications in specific vendor equipment.

The NOC has a standard 3-tier escalation configuration with automatic escalation intervals. Tier 4 support is escalated to Comcast's Network Engineering Department. Customers are welcome to request to speak with a supervisor or manager at any time.

NOC End user support and Escalation Procedures

The NOC is organized with a standard 3-tier escalation configuration with automatic escalation intervals. Tier 4 support is escalated to Comcast's Network Engineering Department. The NOC is staffed 24 x 7 x 365. Technicians remain on call 7 x 24 to assist with major problems. The NOC may also dispatch technicians 7 x 24. Customers are welcome to request to speak with a supervisor or manager at any time.

COMCAST

BUSINESS SERVICES NETWORK OPERATIONS CENTER (BNOC)

BNOC EXTERNAL ESCALATION PROCEDURES

Business Hours

Priority		Shift Lead		Supervisor		Manager		Director
1= Critical		1 Hour		3 Hours		5 hours		8 hours
2=Major		4 Hours		8 hours		12 hours		-
3=Minor		12 Hours		-		-		-

Non-Business Hours

Priority		Shift Lead		Supervisor		Manager		Director
1= Critical		1 Hour		2 Hours		6 hours		8 hours
2=Major		2 hours		4 Hours		12 Hours		-
3=Minor		6 hours		12 Hours		-		-

MTTR: Priority 1 >2 Hours
Priority 2 >4 Hours
Priority 3 >8 Hours

Priority Definition

1 Total outage, multiple customers or multiple locations, or DS3 or greater outage.

2 Total outage, single customer/single location, or partial outage of multiple customers or multiple locations

3 Partial outage, single customer or location

Customer Escalation Procedures

Customer escalation should always utilize the NOC Contact Number 888.262.7300, Option 2, 2. The NOC will provide management escalations and updates to customers. In the event of an emergency, customers may utilize the contact information below.

NOC	Tier 1,2,3	888-262-7300, 2, 2	888-262-7300, option 2, option 2	cbc--noc@cable.comcast.com
Escalation	NOC/Eng	Shift Leader	888-262-7300, option 2, option 2	cbc--noc@cable.comcast.com
	Management Escalation			CCS-NETO-Management_@cable.comcast.com
	Supervisor	Shinu Varghese	856-206-0325 Office	Shinu_Varghese@cable.comcast.com
	Supervisor	Vimal Shah	856-324-2637 Office	Vimal_Shah@cable.comcast.com
	Mgr	Tonya Adams	856-324-2512 Office	Tonya_Adams@cable.comcast.com
	Director	Clayton Irons	856-324-2380 Office	Clayton_Irons@cable.comcast.com
	VP of Operations	Randel Burke	720-267-7200 office	Randy_Burke@cable.comcast.com

For Customer Planned Maintenance or Re-arrange Notification (for any work that will generate alarms) Please contact the NOC at 888.262.7300, 2,2.

G. Service Levels

Service Level	Service Credit for Non-Compliance
Point of Sale Data Services – end-to-end uptime based on SNMP monitoring, associated CPE uptime; full time proactive monitoring uptime with automated initiation of all repairs, shall meet or exceed 99.75% during site business hours. ComcastBusiness Communications LLC will provide uptime statistics upon request	Credit of 5% of the monthly pricing for first hour of sub-par service level, with increase of 1% per hour for all subsequent hours/month of sub-par service level. Please refer to Comcast PSA for terms and conditions related to non-compliance.
Mean Time to Repair of 4 hours measured	If the objective is missed more than 3

by the total number of outage minutes divided by the total number of outage occurrences measured and reported monthly. Comcast Business Communications LLC will follow the standard MTTR service level objectives. Currently 4 hours to restore equipment outages and 6 hours for fiber services.	times in a year, a credit of 1% of the annual cost of the contract will be made by Contractor. Please refer to Comcast PSA for terms and conditions related to non-compliance.
Installation date – The Contractor must meet the agreed upon installation date for a site. Exceptions are force majeure or causes beyond the reasonable control of the Contractor. Comcast Business Communications LLC will communicate with the state on all scheduled installations and will follow standard installation timeframes based on product, construction and availability intervals.	If the installation date is not met, the Contractor will credit 100% of the installation charges for the site. Please refer to Comcast PSA for terms and conditions related to non-compliance.
Latency and Packet Loss – Contractor must measure latency and packet loss monthly to meet the objectives of average latency not greater than 150 milliseconds and average packet loss not greater than 0.4%. Exceptions are force majeure and other circumstances beyond the control of the Contractor or scheduled service maintenance. Comcast Business Communications LLC will measure latency and packet loss for fiber Ethernet products that offer a CoS (Class of Service)	For any month the objective is not met, the State will receive a credit equal to 1/30th of the monthly recurring charges for the services. Please refer to Comcast PSA for terms and conditions related to non-compliance.

See Comcast Network Service proposal for product descriptions,and network operation for more details.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

Comcast Account Team

Commercial Matters
Kelly Locke
Strategic Enterprise Account Executive
517-334-9138
kelly_locke@cable.comcast.com

Technical Matters
Chris Behm
Sales Engineer
616.575.1058
Christopher_Behm@cable.comcast.com

General Manager
Thomas Abraham
Director
734-254-1584
thomas_abraham@cable.comcast.com

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. The Contractor will identify the functions to be performed by identified individuals, and identify the location of the office to which they report.

The Contractor must have a dedicated account team with experience in the industry. The Contractor will identify a Contract Administrator. The duties of the Contract Administrator shall include, but not be limited to: i) supporting the management of the Contract, ii) facilitating dispute resolution, and iii) advising the State of performance under the terms and conditions of the Contract. The State reserves the right to require a change in the current Contract Administrator if the assigned Contract Administrator is not, in the opinion of the State, adequately serving the needs of the State.

- The Contract Administrator shall be identified as a Key Personnel subject to the State's interview and approval.
- The Contractor shall assign a Customer Service Manager – order and billing management, monthly reports, and performance metrics
- The duties of the Customer Service Manager shall include, but not be limited to: i) overall account management, ii) management of order and billing process, and iii) facilitating SLA compliance including providing monthly performance metrics and reports. The State reserves the right to require a change in the current Customer Service Manager if the assigned Customer Service Manager is not, in the opinion of the State, adequately serving the needs of the State.

- The Customer Service Manager shall be identified as a Key Personnel subject to the State's interview and approval.
- The Contract will provide sufficient qualified staffing to satisfy the deliverables of this Statement of Work.

Bidder Response: **Comcast Business Communication, LLC understands and will comply**

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

State Project Team

Contract Compliance Manager

DTMB will assign a Contract Compliance Manager who will be responsible for the SOM's infrastructure and coordinate with the Contractor in determining the system configuration.

The SOM's Contract Compliance Manager will provide the following services:

- Coordinate the SOM resources necessary for the project.
- Provide acceptance and sign-off of deliverable/milestone and invoices.
- Collect information necessary to monitor Contractors performance against SLA requirements.
- Attend periodic meetings to review Contractor deliverables and metrics.
- Facilitate coordination between various external contractors.
- Facilitate communication between different SOM departments/divisions.
- Escalate outstanding/high priority issues.
- Utilize change control procedures and resolve project related issues.
- Conduct regular and ongoing reviews of the project to confirm that it meets original objectives and requirements.
- Document and archive all important project decisions.
- Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.
- Interface with Local Agencies to resolve delivery and change control issues.

Name	Agency/Division	Title	Phone/e-mail
Jim Bowen	DTMB Telecommunications Planning	Wide Area Network (WAN) Transmission Planning Specialist	(517) 241-9076 bowenj@michigan.gov

DTMB Contract Administrator

DTMB will assign a Contract Administrator who will manage post contractual activities which include but are not limited to:

- Negotiating or clarifying contractual provisions.
- Approving amendments to or extensions of the Contract.
- Participating in scheduled reviews of Contract milestones and deliverables.
- Resolving Contract issues between the SOM and Contractor.
- Verifying that all contractual activities are complete prior to contract close out.

Name	Agency/Division	Title	Phone/e-mail
Christine Mitchell	DTMB	Contract Administrator	(517) 335-0462 mitchellc4@michigan.gov

Comcast Business Communications, LLC understands and information received.

1.203 OTHER ROLES AND RESPONSIBILITIES

1.3 Project Progress

1.301 PROJECT START UP & REVIEW

Comcast Business Communication, LLC understands and will comply with the following:

A. Orientation Meeting

1. Within fifteen (15) business days from execution of the Contract, the Contractor may be required to attend an orientation meeting to discuss the content and procedures of the Contract.
2. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor.
3. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

B. Performance Review Meetings

1. DTMB will require the Contractor to attend periodic meetings to review their performance under the Contract.
2. The meetings will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor.
3. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

1.302 REPORTS

Comcast Business Communication, LLC understands and will comply with the following:
Contractor will provide:

1. Monthly Status Report that correlates to the invoiced amount.
2. The Status Report will briefly describe the services, billing, and order activity during the status period.
3. Monthly Spend by service type and invoice line item
4. Monthly Spend by agency and in total for the State
5. Monthly report of Service Level Metrics
6. Issues and concerns affecting specific deliverables and the schedule or any other aspect of the project.)
7. Monthly report of all trouble/problem and escalation/resolution (Mean Time to Repair (MTTR))
8. Report formats will be agreed upon between the State and Contractor.

Network Management Reporting

Customer will be given a secure web login to review the external reporting data at their convenience. Network management reports will include the following reporting elements:

- Service Availability (Uptime) in percentage of day per connection
- Packet discard percentage, per connection
- Average Throughput, per connection, per Hour for the past day, 7 day and 30 day intervals.

Field Operations

The role of Field Operations in Comcast is two-fold. First, Field Operations provides an effective field presence for technical support of our core (ATM, IP, Optical) network. They perform on-site repairs and trouble-shooting on a daily, ongoing basis and dispatch field technicians to support our voice switches and other hardware. These field crews are the "on-site" presence to remedying any network trouble.

Second, Field Operations provides leadership for customer installations. Field Operations Project Coordinators are assigned to each new account to singularly manage the local work required for each install. The Project Coordinator manages the dispatch of local technicians to install switches, routers, servers, and other equipment on the company side of the company/customer demarcation point.

1.4 Project Management

1.401 ISSUE MANAGEMENT

Comcast Business Communication, LLC understands and will be in compliance with the Comcast trouble ticket management system and escalation procedure process.

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

The Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Program Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

1.402 RISK MANAGEMENT

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the Contract. Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy.
Comcast Business Communication, LLC understands and is unaware of any risks that might apply.

1.403 CHANGE MANAGEMENT

Contract change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract. (See Terms and Conditions, Article 2 and Attachment F Change Management Process for networks)
Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DTMB Procurement risk non-payment for the out-of-scope/pricing products and/or services.

Comcast Business Communication, LLC understands and will comply.

1.5 Acceptance

1.501 CRITERIA

Upon installation, the Contractor and State will conduct tests to ensure that the equipment and services operate in substantial conformance with the requirements of the RFP for a period of 45 days after installation. All costs associated with testing must be included in Contract price schedule for associated services.

Comcast Business Communication, LLC understands and will comply.

1.502 FINAL ACCEPTANCE

Final acceptance is expressly conditioned upon completion of all delivery of equipment, completion of all tasks in the project plan as approved, delivery of services, and the certification by the State that the deliverables meet the defined requirements.

1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

A. Commercial Broadband Service.
Pricing detail for Commercial Broadband Services, including both one-time and recurring charges are identified in Attachment C. Equipment and managed service costs are separately identified. Pricing is provided for an unmanaged service.
Any managed service proposals are optional. Uplink and downlink speed combinations available are shown and priced.

A service area map (Attachment A) for any/all regions is included in this Contract. A pricing and coverage table is included for each region available for Commercial Broadband Services.
A contract pricing spreadsheet is also included which shows Contractor pricing for all covered service areas regionally by county and city for all Commercial Broadband Services. The pricing in the contract pricing spreadsheet must match the cost model example (Attachment C) pricing provided for evaluation.
Additional pricing spreadsheets are included for higher speeds or other alternatives that the Contract has offered. A description and benefits of alternatives accompanies each additional spreadsheet to aid the State in selecting the best alternative. These alternative services are provided regionally and pricing entered in the spread sheet by county and city. A service area map (Attachment A) is provided for any/all regions included in this Contract for alternative services if offered.

B. Cable TV Services

Monthly pricing detail for Cable TV Services must be provided in printed copy and in Excel spread sheet format. All one-time and recurring charges are identified. Cable TV Services pricing in addition to the basic Cable Service are included in the spreadsheet as add-on pricing. See table in Article 1 Attachment D.

A service area map (Attachment A) is included for any/all regions included in this Contract. The Contract pricing for basic cable services for each region available for Cable TV Services is included in Attachment D. Prices for multiple connections for service, converters, installation, and programming are also identified.

The pricing spread sheet shows pricing regionally by county and city the Contractor proposes for providing Cable TV Services (see Article 1 Attachment D for an example). The pricing in the contract pricing spreadsheet must match the cost model example (Attachment D) pricing provided for evaluation.

C. Basic Internet Services

Monthly pricing detail for Basic Internet Services must be provided in printed copy and in Excel spread sheet format. All one-time and recurring charges are identified. See the table in Article 1 Attachment E. A service area map (Attachment A) is included for any/all regions available for provision of basic cable services. Prices for multiple connections for service and installation are also identified.

A contract pricing spread sheet is provided which shows pricing regionally by county and city the Contractor proposes for providing Basic Internet Services (see Article 1 Attachment E for an example).

D. Payment

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

1.7 Additional Terms and Conditions Specific to this SOW

1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW

1. The State has a goal of achieving higher participation by small, Michigan-based businesses in State-awarded contracts. Consideration may also be given to a Contractor with proactive practices for hiring and retaining underrepresented groups or who recruit to retain or increase the number of information technology professionals in Michigan. Additionally, pursuant to the Public Act 91 of 2005, the State affords an all-else-equal preference for businesses owned by qualified disabled veterans.
2. The State must be able to migrate to an improved level/type of service offered by the same provider, without early cancellation fees or penalties for the discontinued service

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Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 CONTRACT TERM

This Contract is for a period of **five years** beginning December 9, 2011 through December 8, 2016). All outstanding Purchase Orders must also expire upon the termination for any of the reasons listed in **Section 2.150** of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, shall remain in effect for the balance of the fiscal year for which they were issued.

2.002 OPTIONS TO RENEW

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

2.003 LEGAL EFFECT

Contractor accepts this Contract by signing two copies of the Contract and returning them to the Procurement. 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 shall not be liable 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), 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 must issue an approved written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order 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 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 shall 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. The Contract 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 the 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 Technology, Management and Budget, Procurement for the Telecommunications Division (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Procurement is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. The Procurement Contract Administrator for this Contract is:

Christine Mitchell, CPPB
Buyer Specialist
Procurement
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: mitchellc4@michigan.gov
Phone: (517) 335-0462

2.022 CONTRACT COMPLIANCE INSPECTOR

The Director of Procurement directs the person named below, or his or her designee, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. **Monitoring Contract activities does not imply the authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract. Procurement is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contract Compliance Inspector for this Contract is:

Jim Bowen
Wide Area Network Transmission Planning Specialist
DTMB Telecommunications Planning
608 W. Allegan
Lansing, MI 48933
Email: bowenj@michigan.gov
Phone: (517) 241-9076
Fax: 513 373-0303

2.023 PROJECT MANAGER

Reserved

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, Contractor shall provide a detailed outline of all work to be done, including tasks necessary to accomplish the Additional 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 before commencing performance of the requested activities it believes 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 and 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 requires 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 Contractor believe the proposed Change 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 shall 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 shall be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice 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 shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Technology, Management and Budget, Procurement.

(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 below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

State:
State of Michigan
Procurement
Attention: Christine Mitchell
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor:
Terrence J. Connell
Senior Vice President
Comcast Business Communications, LLC.
1701 JFK Boulevard
Philadelphia, PA 19103

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 giving 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 shall be deemed to be an employee, agent or servant of the State for any reason. Contractor shall 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 shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties shall 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 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

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

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 shall 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 Contractor 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 shall 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 shall 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

The State shall not be obligated to pay any amounts in addition to the charges specified in this Contract for all Services/Deliverables to be provided by Contractor and its Subcontractors, if any, under 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 shall 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 shall 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 1.600**.
(c) Correct invoices shall be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) All invoices should reflect actual work done. The statement 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 15th 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 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 shall 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 shall be made by electronic fund transfer (EFT).

2.050 Taxes

2.051 EMPLOYMENT TAXES

Contractor shall collect and pay all applicable federal, state, and local employment taxes, including the taxes.

2.052 SALES AND USE TAXES

Contractor shall register and 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 shall 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 shall notify the State of the proposed assignment, shall introduce the individual to the appropriate State representatives, and shall 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 shall 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 on 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, and resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.
(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

2.063 RE-ASSIGNMENT OF PERSONNEL AT THE STATE'S REQUEST

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service shall 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 shall perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel shall, 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 shall 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 shall 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 shall 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 shall provide the Services/Deliverables directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor shall 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 shall 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 shall 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 Technology, Management and Budget, Procurement 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 shall 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 shall 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 shall 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 shall 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 shall provide only the equipment and resources identified in the Statement 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 shall 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 shall 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 shall be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations shall 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 shall be initiated by the State and shall be reasonably related to the type of work requested.

All Contractor personnel shall 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 shall be expected to agree to the State's security and acceptable use policies before the Contractor personnel shall be accepted as a resource to perform work for the State. It is expected the Contractor shall present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff shall 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 shall cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI DATA SECURITY REQUIREMENTS

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 shall contact the Department of Technology, 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, shall 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 shall continue to treat cardholder data as confidential upon contract termination.

The Contractor shall provide the Department of Technology, Management and Budget, Financial Services documentation showing PCI Data Security certification has been achieved. The Contractor shall advise the Department of Technology, 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 shall provide a time line for corrective action.

2.100 Confidentiality

2.101 CONFIDENTIALITY

Contractor and the State each acknowledge that the other possesses and shall 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 shall 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 shall (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 shall 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 shall 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 shall 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 shall at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor shall 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 shall notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

2.113 RETENTION OF RECORDS

Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records shall 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 shall meet to review each audit report promptly after issuance. The Contractor shall respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State shall 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 shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four invoices. If a balance remains after four invoices, then the remaining amount shall be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the contract, whichever is earlier.

In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than 10%, then the Contractor shall pay all of the reasonable costs of the audit.

2.120 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 shall infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
(f) It is qualified and registered to transact business in all locations where required.
(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.
(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse 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 Technology, Management and Budget, Procurement.

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 shall maintain the equipment/system(s) in good operating condition and shall 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 two (2) 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 shall 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 Procurement 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. All policies of insurance required in this Contract must be issued by companies that have been approved to do business in the State.
See www.michigan.gov/dleg.

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 INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 3. Workers' compensation coverage must be provided 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 MDTMB Procurement, 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 SHALL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Procurement, Department of Technology, Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional 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 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 shall seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.
(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.
(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State may defend the claim in the manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor must promptly reimburse the State for all the reasonable costs and expenses.

2.150 Termination/Cancellation

2.151 NOTICE AND RIGHT TO CURE

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

2.152 TERMINATION FOR CAUSE

(a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State
(b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable

attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

(c) If the State chooses to partially terminate this Contract for cause, charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

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

2.153 TERMINATION FOR CONVENIENCE

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

2.154 TERMINATION FOR NON-APPROPRIATION

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State must terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or 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 shall 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 shall 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 shall pay the Contractor for only the work completed to that point under the Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

2.157 RIGHTS AND OBLIGATIONS UPON TERMINATION

(a) If the State terminates this Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 RESERVATION OF RIGHTS

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

2.160 Termination by Contractor

2.161 TERMINATION BY CONTRACTOR

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

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

2.170 Transition Responsibilities

2.171 CONTRACTOR TRANSITION RESPONSIBILITIES

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor shall 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 60 business days. These efforts must include, but are not limited to, those listed in **Section 2.150.**

2.172 CONTRACTOR PERSONNEL TRANSITION

The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor 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 shall 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 shall 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 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**. 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 2.182**.

2.182 CANCELLATION OR EXPIRATION OF STOP WORK ORDER

The Contractor shall resume work if the State cancels a Stop Work Order or if it expires. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the Stop Work Order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.024**.

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 shall be deemed to be a termination for convenience under **Section 2.153**, and the State shall pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this Section**.**

2.190 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 shall be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any dispute after compliance with the processes, the parties must meet with the Director of Procurement, DTMB, or designee, 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 at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(2) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract shall 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 shall 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 60 calendar days, the Director of Procurement, DTMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section shall 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 shall 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 shall 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 that the damages to the party resulting from the breach shall 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 shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall 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 shall comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor shall comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html.

2.204 PREVAILING WAGE

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

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

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

2.210 Governing Law

2.211 GOVERNING LAW

The Contract shall 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 shall be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to 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 shall be 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 State's liability for damages to the Contractor is limited to the value of the work performed by the Contractor up to the point the damages occurred.

2.230 Disclosure Responsibilities

2.231 DISCLOSURE OF LITIGATION

Contractor shall 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) shall 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 shall disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements 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 shall 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 shall make the following notifications in writing:

(1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify MDTMB Procurement.

(2) Contractor shall also notify MDTMB Procurement within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor shall also notify MDTMB Purchase Operations within 30 days whenever changes to company affiliations occur.

2.232 CALL CENTER DISCLOSURE

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

2.233 BANKRUPTCY

The State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the “Work in Process” and finish the Works in Process by whatever appropriate method the State may deem expedient if:

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

Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall 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 shall 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 shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and 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 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 Contractor 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

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.152**, the State is entitled to collect liquidated damages in the amount of $5,000.00 and an additional $100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

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, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with this Section.

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 shall 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 two (2) business days (unless faulty gear causing an "emergency" situation) 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

Public Act 431 of 1984 permits MDTMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: www.michigan.gov/buymichiganfirst. Unless otherwise stated, the Contractor must ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment to these local governmental agencies 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 local unit of government, on a direct and individual basis.

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

2.282 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 shall 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 bio accumulative. 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 shall 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 shall provide a safe and suitable environment for performance of Contractor’s Work. Before the commencement of Work, the State shall 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 shall 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 shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State’s convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor shall 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 shall 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 executing 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 executing 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.

2.310 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 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 leap years shall be correctly treated 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

Reserved.

2.322 CROSS-LICENSE, DELIVERABLES AND DERIVATIVE WORK, LICENSE TO CONTRACTOR

Reserved.

2.323 LICENSE BACK TO THE STATE

Reserved.

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

Reserved.

2.332 DELIVERY OF SOURCE CODE INTO ESCROW

Reserved.

2.333 DELIVERY OF NEW SOURCE CODE INTO ESCROW

Reserved.

2.334 VERIFICATION

Reserved.

2.335 ESCROW FEES

Reserved.

2.336 RELEASE EVENTS

Reserved.

2.337 RELEASE EVENT PROCEDURES

Reserved.

2.338 LICENSE

Reserved.

2.339 DERIVATIVE WORKS

Reserved.

Article 4 – Required Bidder Information

4.0 Bidder Information

4.1.1 Company Information

State the bidder's full name and address, including all locations that will perform or assist in performing the work. State the bidder's legal status (such as an individual, partnership, or corporation), including the state of organization or incorporation and whether it is licensed or authorized to conduct business in Michigan.

Name:	Comcast Business Communications, LLC				**Web Page:**	http://www.business.comcast.com.	
Address:	1701 JFK Boulevard	**City:**	Philadelphia	**State:**	PA	**Zip:**	19103
Legal Status:		**Years in business?**	10		**Phone:**	215-286-5982	
State Incorporated or Organized:	Pennsylvania	**Registered in Michigan?**		Yes			

4.1.2 Bidder Contact During RFP Process

State the name, address, e-mail, phone, and fax numbers for the person who will be the sole contact for the bidder during the RFP process.

Name:	Kelly Locke				**e-mail:**	Kelly_locke@cable.comast.com	
Address:	1401 E Miller Rd	**City:**	Lansing	**State: MI**		**Zip:**	48911
Phone:	517-334-9138	**Fax:**	517-334-1880		**Mobile:**	517-897-0554	

4.1.3 Authorized Contract Signatory

State the name, title, and phone number of the person(s) authorized to sign a contract with the State on behalf of the bidder, including any limitations on their signing authority.

Name:	Terrence J. Connell	**Title:**	Senior Vice President	**Phone:**	215-286-5982

4.1.4 Subcontractors

The bidder must provide a list of all Subcontractors, including firm name, address, contact person, a complete description of the work to be subcontracted, and a description of the Subcontractor's organization and abilities.

Bidder Response:

4.1.5 Former State Employees

Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.

4.1.6 Use of Other Sources as Subcontractors
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.

Community Rehabilitation Organizations: *Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.*

4.1.7 Services Needed in Performance – Principal Place of Business
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.

4.1.8 Subcontractors Needed in Performance of Contract – Principal Place of Business
Completed in Bid4Michigan Bid-Specific Certifications & Representations Online.

4.1.9 Prior Experience / Company References
Reserved.

4.1.10 Contract Performance
The bidder must provide details concerning any contract that has been terminated for the bidder's default in the last three years. If the bidder has not had a contract terminated for default in this period, the bidder must affirmatively state this in the "Bidder Response" box below.

Name of other parties to the contract:							
Address:		**City:**		**State:**		**Zip:**	
	Contact Name:			**Phone:**			
Reason for Termination:							

Bidder Response:

4.1.11 Disclosure of Litigation
(a) The bidder must disclose any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") involving the bidder, any proposed subcontractor, or any of their officers or directors that is:

(i) A criminal Proceeding;
(ii) A parole or probation Proceeding;
(iii) A Proceeding under the Sarbanes-Oxley Act; or
(iv) A civil Proceeding involving: (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the bidder or any proposed subcontractor; or (B) a claim or written allegation of fraud against the bidder (or, if the bidder is aware, any proposed Subcontractor) by a governmental or public entity arising out of the bidder's business dealings with governmental or public entities.

(b) Information provided to the State from the Contractor's publicly filed documents will satisfy the requirements of this Section.

Bidder Response:

4.1.12 Business Owned by Qualified Disabled Veteran

"Qualified Disabled Veteran," as defined by Public Act 431 of 1984, means a business entity that is at least 51% owned by one or more veterans with a service-connected disability. The Act defines "Service-Connected Disability" as a disability incurred or aggravated in the line of active military, naval, or air service as defined in 38 USC 101 (16).

The Bidder represents that it IS _____, IS NOT ___X___ a disabled Veteran-owned business.

The Bidder represents and warrants that the company meets the above criteria (when checked) and has provided the following supportive documentation:

(a) Proof of service and conditions of discharge: DD214 or equivalent
(b) Proof of service-connected disability: DD214 if the disability was documented at discharge or Veterans Administration (VA) Rating Decision Letter or equivalent if the disability was documented after discharge
(c) Proof of Ownership: Appropriate legal documents setting forth the ownership of the business entity

IMPORTANT NOTE TO BIDDERS: Self certification alone will not initiate the price preference cited in **Section 3.032, Qualified Disabled Veteran Preference**. In order to be considered for the pricing preference your self-certification must be accompanied by the qualifying documents listed above.

Loss of Preference: If during the term of the contract the contractor no longer qualifies for the preference, or if the contract is assigned to a business entity that does not qualify for the preference, they will be required to discount their contract price by the amount of the preference they received.

Fraudulently representing information about the use of businesses owned by persons with disabilities to procure this contract is a violation of the Business Opportunity Act for Persons with Disabilities of 1988 PA 112, MCL 450.791 – 450.795. A person who knowingly violates this act is guilty of a felony, punishable by imprisonment up to 2 years in prison, or a fine not less than $5,000. A person found guilty of violating this act may be barred from obtaining future contracts with the State.

SIGNATURE AUTHORITY
I/We certify that the undersigned is authorized to submit bids/quotations on behalf of the bidder and the information provided in response to the RFP is true and accurate**.**

Comcast Business Communications, LLC

_____
Name of Bidder
1701 JFK Boulevard

_____
Philadelphia, PA 19103

_____
_____
_____
Address of Bidder
215-286-5982 and 215-286-1040 fax

_____
Telephone and Fax No. of Bidder

_____
E-mail Address of Bidder

_____
Signature of Bidder's Authorized Representative
Senior Vice President

_____
Title of Bidder Representative
09/09/11

_____
Date

_____
Additional Signature
Bidder's Authorized Representative

_____
Title of Bidder Representative

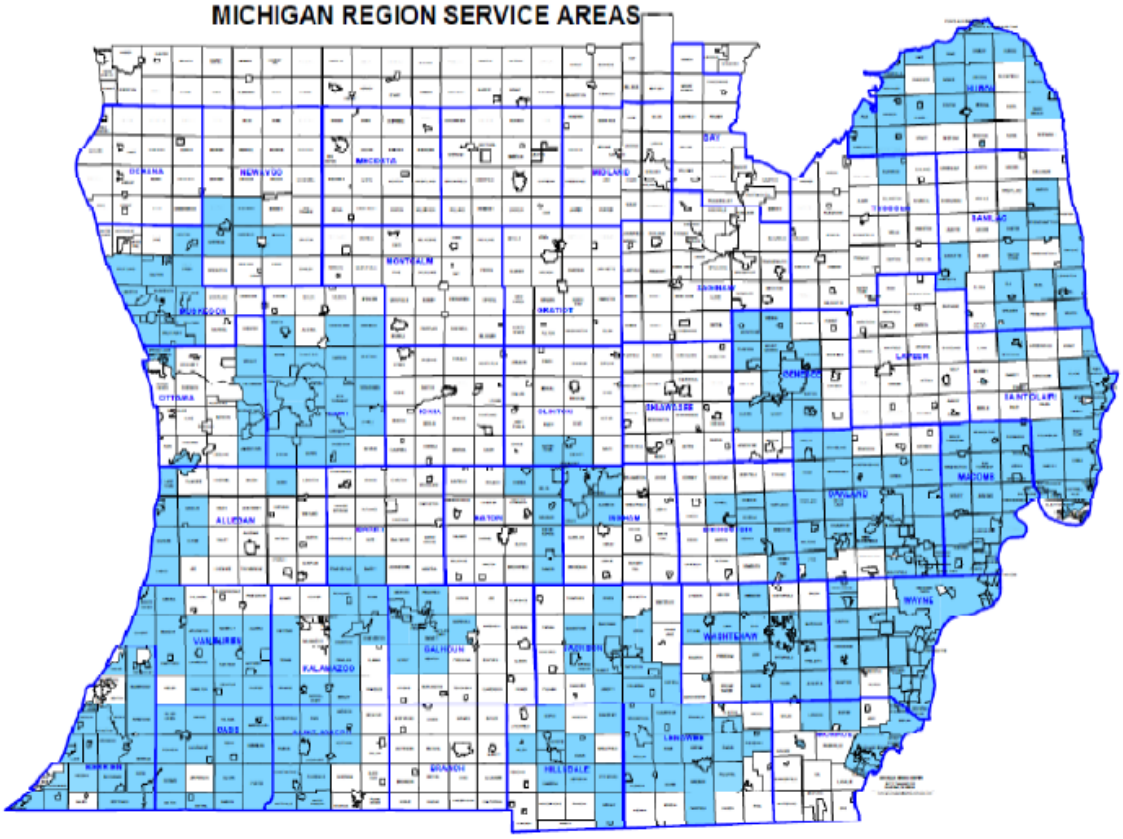
_____
Date

RFP No. 071I13

Attachment A

Vendor to provide service area maps for counties, townships and municipalities. This Michigan Graphic shows county boundaries for the State of Michigan. This map can be modified to illustrate Vendor regions for providing services and pricing.

MICHIGAN REGION SERVICE AREAS



Community
ADA
Adams Twp
ADDISON Vil.
ADRIAN
ADRIAN TWP
ALAIEDON(EAST LANSING)
ALAIEDON(LANSING)
Algonac
Allen Park
Allen Twp
ALMENA TWP
ALPINE
Ann Arbor
Ann Arbor Twp
ANTWERP TWP
ARLINGTON TWP
Armada Twp
Armada Village
Auburn Hills
Augusta
AUGUSTA (vil.)
Bad Axe
BAINBRIDGE TWP
BANGOR
BANGOR TWP
BARODA (vil.)
BARODA TWP
BARRY TWP
Barton Hills
Bath Twp
BATTLE CREEK
BEDFORD TWP
Belleville
Benton Charter Twp
Benton Harbor
Berkley
Berlin Township
BERRIEN SPRINGS (vil.)
BERRIEN TWP
BERTRAND TWP
Beverly Hills
Bingham Farms
Birmingham
BLACKMAN
Bloomfield Hills
Bloomfield Twp
BRADY TWP
Bridgehampton TWP
BRIDGMAN
Brighton

71

Brighton Twp
BRITTON (vil.)
Brockway Twp
Brookfield TWP
BROOKLYN
BROOKS TWP
Brown City
Brownstown Twp
Bruce
BUCHANAN
BUCHANAN TWP
Burtchville
Burton City
BYRON TWP
CALEDONIA TWP
CALVIN TWP
CALVIN TWP(ST. JOE)
Cambria Twp
CAMBRIDGE TWP
CANNON
Canton
Capac
Carsonville Village
CASCADE
Casco
CASCO TWP
Caseville
Caseville Twp
CASSOPOLIS (vil.)
CEDAR CREEK
CEMENT CITY (vil.)
Center Line
CENTREVILLE (vil.)
CHARLESTON TWP
Chelsea
Chesterfield
CHIKAMING TWP (Berrien Co.)
China
Clarkston Vlg
Clawson
Clay
Clinton
Clinton Twp
Clio City
Clyde
CLYDE TWP
Colfax Twp
COLOMA
COLOMA TWP
COLUMBIA
Columbus
Commerce Twp.
COMSTOCK
CONSTANTINE (vil.)
CONSTANTINE TWP
Cottrellville
COVERT TWP
Croswell City
Custer TWP
DALTON TWP
DAYTON TWP
Dearborn
Dearborn Heights
DECATUR (Vil)
DECATUR Twp
Deckerville
Delaware Twp.
DELHI TWP
DELTA
Detroit
DEWITT
DEWITT TWP
Dexter
DORR
DOUGLAS (Vlg)
DOVER TWP
DOWAGIAC
Dundee
Dwight Twp.
East China
East Grand Rapids
EAST LANSING
Eastpointe
EATON RAPIDS
EATON RAPIDS TWP
Ecorse
EDWARDSBURG (vil.)
EGELSTON TWP
Elk TWP
Elkton
Elmwood TWP
EMMETT TWP
Everette
Exeter
FABIUS TWP
FAIRFIELD TWP
Fairhaven Twp
Fayette Twp
FENNVILLE
Ferndale
FERRYSBURG
Flatrock
Flint City
Flint Twp
FLOWERFIELD TWP
Flushing
Flushing Twp
Fort Gratiot
Franklin
FRANKLIN TWP
Fraser
FREMONT
Frenchtown
FRUITLAND
FRUITPORT
Gagetown Village
GAINES
Gaines Twp
GALESBURG
GANGES TWP
Garden City
GARFIELD TWP
Genesee Twp
GENEVA TWP
Genoa Twp
GEORGETOWN
Gibraltar
Gore Twp
GRAND BEACH (vil.)
Grand Blanc City
Grand Blanc Twp
GRAND LEDGE
GRAND RAPIDS
GRAND RAPIDS TWP
GRANDVILLE
GRATTAN TWP
Green Oak Twp
Grosse Ile
Grosse Pointe
Grosse Pointe Farms
Grosse Pointe Park
Grosse Pointe Shores
Grosse Pointe Woods
Groveland
HAGAR TWP
HAMILTON TWP
HAMLIN TWP
Hamtramck
Harbor Beach
Harper Woods
Harrison Twp
HARTFORD
HARTFORD TWP
HARTFORD TWP
Hartland Twp.
Hazel Park
Highland Twp.
Hillsdale City
Hillsdale Twp
HOLLAND
Holly Twp
Holly Village
HOLTON TWP
HOWARD
Howell

Howell Twp.
Hudson City
HUDSON TWP
Hudson Twp
Hume
Huntington Woods
Huron Twp.
Independence
Inkster
Ira
JACKSON
JAMESTOWN TWP
JEFFERSON TWP
Jefferson Twp
JONES
Jonesville Village
Keego Harbor
KENTWOOD
Kimball
Kinde
LA GRANGE TWP
LA GRANGE TWP
Lake Angelus
Lake Orion
Lake Twp
LAKE TWP (Berrien Co.)
LAKETON
Laketown
LANSING
LANSING TWP
Lathrup Village City
LAWRENCE (vil.)
LAWRENCE TWP(RICHLAND)
LAWRENCE TWP(ST. JOE)
LAWTON
Lenox
LEONI
LEROY TWP
Lexington TWP
Lexington Village
LIBERTY
Lima Twp
LINCOLN CHARTER TWP
Lincoln Park
Lincoln Twp
LOCKPORT TWP
Lodi Twp
London
LOWELL
LOWELL TWP
Lyon Twp.
Macomb Twp
Madison Heights
MADISON TWP
Manchester
MANLIUS TWP
MARCELLUS TWP
Marine City
Marion TWP
Marlette City
MARSHALL TWP
Marysville
MASON TWP
MATTAWAN (vil.)
McKinley
Meade Twp.
Melvindale
Memphis
MENDON TWP
MERIDIAN TWP
MICHIANA (vil.)
Milan
Milford Twp.
Milford Vil.
MILTON TWP
Monroe
Monroe Twp.
MOTTVILLE TWP
Mount Clemens
Mount Morris City
Mount Morris Twp
Mundy Twp
MUSKEGON
MUSKEGON HEIGHTS
MUSKEGON TWP
NAPOLEON TWP
New Baltimore
NEW BUFFALO
NEW BUFFALO TWP
NEW BUFFALO TWP
New Haven
NEWBERG TWP
NEWTON TWP
NILES
NILES TWP
North Adams Village
NORTH MUSKEGON
Northville City
Northville Twp
NORTON SHORES
NORVELL TWP
NOTTAWA TWP
Novi
Oak Park
OAKFIELD
Oakland Twp.
Oceola Twp
Oceola Twp
Oliver
ONEIDA TWP
ONSTED
ONTWA TWP
Orchard Lake
Orion
ORONOKO TWP
OSHTEMO
Owendale Village
Oxford Twp
PALMYRA TWP
PARK TWP
PAVILION
PAW PAW (vil.)
PAW PAW TWP
Peck Village
PENN TWP(3 RIVERS)
PENN TWP(ST. JOE)
PENNFIELD TWP
Pigeon Village
PIPESTONE TWP
Pittsfield
Pittsford Twp
PLAINFIELD
Pleasant Ridge
Plymouth City
Plymouth Twp
Pointe Aux Barques
POKAGON TWP
Pontiac
Port Austin Twp.
Port Austin Village
Port Hope
Port Huron
Port Huron Twp.
Port Sanilac Village
PORTAGE
Porter Twp
PORTER TWP(CASS)
PORTER TWP(LAWTON)
PORTER TWP(MARCELL
PRAIRIE RONDE TWP
PRAIRIEVILLE TWP
RAISIN
Raisinville
Ray
Richfield Twp
RICHLAND (vil.)
RICHLAND TWP
Richmond
Richmond Twp.
RIDGEWAY TWP
Riley Twp.
River Rouge
Riverview
RIVES JUNCTION TWP
Rochester

Rochester Hills
Rockwood
ROLLIN TWP
Romeo
Romulus
ROOSEVELT PARK
Rose Twp
Rose Twp
Roseville
ROSS TWP
Royal Oak
Royal Oak Twp
ROYALTON TWP
Rubicon Twp.
Saline
Saline Twp
Sand Beach
SANDSTONE
Sandusky City
Sanilac TWP
SAUGATUCK
SAUGATUCK TWP
SCHOOLCRAFT (vil.)
SCHOOLCRAFT TWP
Scio Twp
Scipio Twp
Sebewaing Twp
Sebewaing Village
Selfridge
Shelby
SHERIDAN TWP
SHERMAN TWP
SHERMAN TWP
SHOREHAM (vil.)
SILVER CREEK TWP
SODUS TWP
SOMERSET
SOUTH HAVEN
SOUTH HAVEN Twp
South Lyons
South Rockwood
Southfield
Southgate
SPARTA TWP
Speaker TWP
SPRING ARBOR
SPRING LAKE
SPRINGFIELD
Springfield Twp.
ST JOSEPH Twp.
St. Joseph
St.Clair
St.Clair Shores
St.Clair Twp.
Sterling Heights
STEVENSVILLE (vil.)
SULLIVAN TWP
SUMMIT
Sumpter
Superior Twp
Swartz Creek City
Sylvan Lake
Sylvan Twp
TALLMADGE
Taylor
TECUMSEH
Tecumseh Twp
TEXAS
Thetford Twp
THREE OAKS (vil.)
THREE OAKS TWP
THREE RIVERS
Trenton
Troy
Ubly Village
Utica
Van Buren
VANDALIA (vil.)
VERGENNES
Verona
VICKSBURG (vil.)
Vienna Twp
VOLINIA TWP
Waldron Village
WALKER
Walled Lake
Warren
Washington
Waterford
WATERTOWN
Watertown TWP
WATERVLIET
WATERVLIET TWP
WAVERLY TWP
Wayne
WAYNE TWP
Webster Twp
WEESAW TWP
West Bloomfield
Westland
WHEATFIELD TWP
White Lake
WHITE PIGEON (vil.)
WHITE PIGEON TWP
WINDSOR TWP
Winsor
Wixom
Wolverine Lake
Woodhaven
WOODSTOCK TWP
Worth TWP
WRIGHT TWP
Wright Twp
Wyandotte
WYOMING
Yale City
York
Ypsilanti
Ypsilanti Twp

Attachment B.

Provide Credit policies for outages, late installation and non-delivery of proposed services.

Comcast Business Communication, LLC understands and does not have a credit policy for late installation and non-delivery of services. Policies for outages can be reference in the Comcast contract and terms and conditions.

RFP No. 071I

Attachment C

Commercial Broadband Services Cost Models

Provide monthly pricing detail for Commercial Broadband Services including all one-time and recurring charges for the items below that you would like to bid on.

Provide Pricing as follows, identifying proposed Uplink and Downlink speeds, with a minimum Uplink speed of 1MB and a minimum Downlink speed of 2MB. Add rows and columns as necessary.

Per month charge $	One Time Charges	Uplink 1MB	Uplink 2 MB	Uplink 5 MB	Uplink 10 MB	Equipment fee per month
Downlink 2MB	Not available	Not available	Not available	Not available	Not available	Not available
Downlink 6 MB	$199, $99 or $49	$50	Not available	Not available	Not available	$5
Downlink 16 MB	$199, $99 or $49	Not available	$75	Not available	Not available	$5
Downlink 12 MB (DOCSIS 3 service in available areas)	$199, $99 or $49	Not available	$50	Not available	Not available	$5
Downlink 22 MB (DOCSIS 3 service in available areas)	$199, $99 or $49	Not available	Not available	$85	Not available	$5
Downlink 50 MB (DOCSIS 3 service in available areas)	$199, $99 or $49	Not available	Not available	Not available	$189.95	$5
Downlink 100 MB (DOCSIS 3 service in available areas)	$199, $99 or $49	Not available	Not available	Not available	$369.95	$5

- Installation charges (site surveys are required for all sites and additional construction charges may apply for non-standard installations)
  - 12 month term $199
  - 24 month term $99
  - 36 month term $49
- Static IP addresses
  - Available 1 - $14.95/mo., 5 - $19.95/mo., 13 - $34.95/mo.

Attachment D
Cable TV Services Cost Model

Provide monthly pricing detail for Cable TV Services including all one-time and recurring charges. Cable TV Services pricing in addition to the Basic Cable Service should be put in the spread sheet as add on pricing.

Provide pricing for Cable TV Services as follows. Add rows and columns as necessary.

Contract Pricing For Cable TV Services

Basic Cable	Information and Entertainment	Standard	Preferred	Installation	Additional per Digital Outlet
$24.95	$39.95	$69.95	$84.95	Waived on a 3 year agreement	$9.95

- Serviceability based on site survey and may require constrction charges for non-standard installation. Map included in Attachment A, but serviceability will need to be verified for each site.

Attachment E
Basic Internet Access Services Cost Model

Provide monthly pricing detail for Basic Internet Access Services including all one-time and recurring charges.

Provide pricing for Basic Internet Access Services as follows. Add rows and columns as necessary.

Contract Pricing For Basic Internet Access Services
Comcast Ethernet Dedicated Internet

Speed	Basic Internet Access	Installation	Hand-off
10 Mbps	$ 737.10	$ 1,000.00	Copper or fiber
20 Mbps	$ 888.30	$ 1,000.00	Copper or fiber
50 Mbps	$ 1,348.20	$ 1,000.00	Copper or fiber
100 Mbps	$ 2,079.00	$ 1,000.00	Copper or fiber
200 Mbps	$ 2,904.30	$ 1,000.00	Copper or fiber
300 Mbps	$ 3,430.35	$ 1,000.00	Copper or fiber
400 Mbps	$ 3,959.55	$ 1,000.00	Copper or fiber
500 Mbps	$ 4,485.60	$ 1,000.00	Copper or fiber
600 Mbps	$ 5,014.80	$ 1,000.00	Copper or fiber
700 Mbps	$ 5,540.85	$ 1,000.00	Copper or fiber
800 Mbps	$ 6,066.90	$ 1,000.00	Copper or fiber
900 Mbps	$ 6,596.10	$ 1,000.00	Copper or fiber
1000 Mbps	$ 7,087.50	$ 1,000.00	Copper or fiber

- Symmetrical Internet service delivered over fiber
- Pricing based on 5 year term length
- Site survey required and based on serviceability in Comcast footprint (Attachment A)
- Additional special construction charges may apply
- Domain Name System: Includes primary and secondary DNS service. Assistance provided to transfer existing domain names
- BGP Routing Protocol (optional): Supports multihoming with load balancing for faster, more efficient routing between networks
- Web-Based Reporting: Connectivity statistics with daily, seven-day, and 30-day reports viewed through our secure Web portal

Additional Comcast services available:

Stand Alone PRI Service Charges	MRC	NRC
Port (per port)	**$ 349.00**	**$ 500.00**
6 Channels Minimum Domestic LD - 1200 Minutes, 6 Sec. billing, pooled per location Overage, w 6 sec billing at $0.03/minute First Block of 20 TN's Unlimited Local and Inbound Caller ID, e911		
Additional Channels (per channel)	**$ 14.00**	**N/C**
Domestic LD - 200 Minutes, 6 Sec. billing, pooled per location Overage, w 6 sec billing at $0.03/minute		
PRI Cap / Full PRI Charge	**$ 489.00**	**$ 500.00**

Pricing for **Enterprise Network Services** (A custom Ethernet network from Comcast allows you to seamlessly link multiple locations together and exchange data at up to 1 gigabit per second.)

Speed per site	Enterprise Network Service per site	Installation	Hand-off
10 Mbps	$ 422.10	$ 500.00	Copper or fiber
20 Mbps	$ 472.50	$ 500.00	Copper or fiber
50 Mbps	$ 611.10	$ 500.00	Copper or fiber
100 Mbps	$ 850.50	$ 500.00	Copper or fiber
200 Mbps	$ 1,222.20	$ 3,000.00	Copper or fiber
300 Mbps	$ 1,278.90	$ 3,000.00	Copper or fiber
400 Mbps	$ 1,335.60	$ 3,000.00	Copper or fiber
500 Mbps	$ 1,392.30	$ 3,000.00	Copper or fiber
600 Mbps	$ 1,449.00	$ 3,000.00	Copper or fiber
700 Mbps	$ 1,505.70	$ 3,000.00	Copper or fiber
800 Mbps	$ 1,562.40	$ 3,000.00	Copper or fiber
900 Mbps	$ 1,619.10	$ 3,000.00	Copper or fiber
1000 Mbps	$ 1,675.80	$ 3,000.00	Copper or fiber

- Pricing based on 5 year term length
- Site survey required and based on serviceability in Comcast footprint (Attachment A)
- Additional special construction charges may apply
- ENS comprises at least 3 sites
- Any-to-Any Connectivity: Any site can send traffic to any other site within your network through a single Ethernet interface

- Class of Service Aware: Dynamic traffic delivery through the Comcast network with up to three different performance levels
- VLAN Transparency: VLAN configurations can be changed within your network without the need to coordinate with Comcast
- Web-Based Reporting: Connectivity statistics for the previous day or for the previous seven-day or 30-day period can be viewed through our secure Web portal

Business Class Voice Line includes:

- Call Hold, Call Transfer, 3-way conferencing, Call Forwarding, Anonymous Call Rejection, Caller ID with Call Waiting, Speed Dial 8 or 30, Hunt group, local and domestic long distance
- $49.95 + $5 equipment fee + $5 for voice mail
- Installation fees are $199 (12 month term), $99 (24 month term), $49 (36 month term)

Attachment F: Comcast Master Service Agreement as revised for State of Michigan Contract

Markups on the following pages made by: Christine Mitchell, Buyer Specialist for the State of Michigan, Department of Technology, Management and Budget, Procurement, November 29, 2011.

In the event terms and conditions on the following pages are in conflict with the State of Michigan (SOM) Contract terms and conditions included in Article 2 above, the SOM Contract shall supersede. References made to the term "Sales Order" can be considered interchangeable with "SOM Purchase Order (PO) whether specifically labeled as such below or not. References to "Agreement" wherever relative to terms and/or conditions included in the SOM Contract, shall be governed by the language within the SOM Contract. Footers claiming "Confidential and Proprietary Information" within this Contract and/or attachments are invalid, as stated in the Request for Proposal (RFP) documenting provisions of the Michigan Freedom of Information Act (FOIA).

Master Service Agreement

Comcast Enterprise Services
General Terms and Conditions

VERSION: 1.1

State of Michigan Contract #071B13000___

DEFINITIONS

Affiliate: Any entity that controls, is controlled by or is under common control with Comcast.

Agreement, Enterprise Services Master Services Agreement or MSA: Consists of the ~~Enterprise Master Services Agreement Cover Page executed by the Customer and accepted by Comcast, these Enterprise Services General Terms and Conditions ("General Terms and Conditions"),~~ the then current Product-Specific Attachment for each ordered Service ("PSA"), any written amendments to the ~~Agreement~~ executed by both Parties including any supplemental terms and conditions ("Amendment(s)"), and each Sales Order accepted by Comcast under the Agreement.

Amendment(s): Any written amendment to the Agreement, executed by both Parties, including any supplemental terms and conditions.

Comcast: The operating company affiliate or subsidiary of Comcast Cable Communications Management, LLC that provides the Services under the Enterprise Services Master Service Agreement. References to Comcast in the Limitation of Liability, Disclaimer of Warranties and Indemnification Articles shall also include its directors, officers, employees, agents, Affiliates, suppliers, licensors, successors, and assigns, as the case may be.

Comcast Website or Website: The Comcast website where the ~~General Terms and Conditions~~, PSAs and other Comcast security and privacy policies applicable to the Agreement will be posted. The current URL for the Website is http://business.comcast.com/terms-conditions/index.aspx. Comcast may update the Website documents and/or URL from time to time.

Comcast Equipment: Any and all facilities, equipment or devices provided by Comcast or its authorized contractors at the Service Location(s) that are used to deliver any of the Services including, but not limited to, all terminals, wires, modems, lines, circuits, ports, routers, gateways, switches, channel service units, data service units, cabinets, and racks. Notwithstanding the above, inside telephone wiring within the Service Location, whether or not installed by Comcast, shall not be considered Comcast Equipment.

Confidential Information: All information regarding either Party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential." or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the generality of the foregoing, Confidential Information shall include, even if not marked, ~~the Agreement,~~ all Licensed Software, promotional materials, ~~proposals, quotes,~~ rate information, discount information, ~~subscriber information, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance) and invoices~~, as well as the Parties' communications regarding such items.

Customer: The company, corporation, or other entity named on the Enterprise Services Master Service Agreement Cover Page and a Sales Order and/or Purchase Order.

Customer-Provided Equipment (CE): Any and all facilities, equipment or devices supplied by Customer for use in connection with the Services.

Demarcation Point: The point of interconnection between the Network and Customer's provided equipment located at a Service Location. In some cases the Demarcation Point shall be the User to Network Interface (UNI) port on Comcast Equipment at a Service Location.

General Terms and Conditions: These included in the State of Michigan Contract. ~~General~~ Terms and Conditions.

Licensed Software: Computer software or code provided by Comcast or required to use the Services, including without limitation, associated documentation, and all updates thereto.

Network: Consists of the Comcast Equipment, facilities, fiber optic cable associated with electronics and other equipment used to provide the Services.

Party: A reference to Comcast or the Customer; and in the plural, a reference to both companies.

Product Specific Attachment(s) (PSA): The additional terms and conditions applicable to Services ordered by Customer under the Agreement.

~~**Revenue Commitment:** A commitment by Customer to purchase a minimum volume of Service during an agreed term, as set forth in a Sales Order.~~

Sales Order: A request for Comcast to provide the Services to a Service Location(s) submitted by Customer to Comcast (a) on a then-current Comcast form designated for that purpose or (b) if available, through a Comcast electronic order processing system designated for that purpose.

Service(s): A service provided by Comcast pursuant to a Sales Order. All Services provided under the Agreement are for

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commercial use only. Services available under this Agreement are identified on the Website.

Service Commencement Date: The date(s) on which Comcast first makes Service available for use by Customer. A single Sales Order containing multiple Service Locations or Services may have multiple Service Commencement Dates.

Service Location(s): The Customer location(s) where Comcast provides the Services, to the extent the Customer owns, leases, or otherwise controls such location(s).

Service Term: The duration of time (commencing on the Service Commencement Date) for which Services are ordered, as specified in a Sales Order.

Tariff: A federal or state Comcast tariff and the successor documents of general applicability that replace such tariff in the event of detariffing.

Termination Charges: Charges that may be imposed by Comcast if, prior to the end of the applicable Service Term (a) Comcast terminates Services for cause or (b) Customer terminates Services without cause. Termination Charges are as set forth in each PSA, and are in addition to any other rights and remedies under the Agreement.

ARTICLE 1. CHANGES TO THE AGREEMENT TERMS

See SOM Contract Section 2.024.

~~modify the Agreement, and any related Revisions") by posting such Revisions to the Revisions are effective upon posting to will receive notice of the Revisions in the invoice. Customer shall have thirty (30) posting of such Revisions to provide Comcast with written notice that the Revisions adversely affect Customer's use of the Service(s). If after notice Comcast is able to verify such adverse affect but is unable to reasonably mitigate the Revision's impact on such Services, then Customer may terminate the impacted Service(s) without further obligation to Comcast beyond the termination date, including early termination charges, any. This shall be Customer's sole and exclusive remedy.~~

ARTICLE 2. DELIVERY OF SERVICE

2.1 **Orders.** Customer shall submit to Comcast a properly completed Sales Order to initiate Service to a Service Location(s). A Sales Order shall become binding on the Parties when (i) it is specifically accepted by Comcast either electronically or in writing, (ii) Comcast begins providing the Service described in the Sales Order or (iii) Comcast begins Custom Installation (as defined in Article 2.7) for delivery of the Services described in the Sales Order, whichever is earlier. When a Sales Order becomes effective it shall be deemed part of, and shall be subject to, the Agreement.

2.2 **Access.** In order to deliver certain Services to Customer, Comcast may require access, right-of-way, conduit, and/or common room space ("Access"), both within and/or outside each Service Location. Customer shall provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the Comcast Equipment used to provide the Services within the Service Location(s). Customer shall be responsible for securing, and maintaining on an initial and ongoing basis during the applicable Service Term and/or Renewal Term, such Access within each Service Location unless Comcast has secured such access prior to this Agreement. In the event that Customer, fails to secure or maintain such Access within a particular Service Location, Comcast may cancel or terminate Service at such particular Service Location, without further liability, upon written notice to Customer. In such event, if Comcast has incurred any costs or expense in installing or preparing to install the Service that it otherwise would not have incurred, a charge equal to those costs and expenses shall apply to Customer's final invoice for that particular Service Location. If Comcast is unable to secure or maintain Access outside a particular Service Location, which Access is needed to provide Services to such Service Location, Customer or Comcast may cancel or terminate Service at such particular Service Location, without further liability beyond the termination date, upon a minimum thirty (30) days' prior written notice to the other party. In such event, if Comcast has incurred any costs or expense in installing or preparing to install the Service that it otherwise would not have incurred, Comcast shall be responsible for such costs or expenses. Any other failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that is otherwise available for use.

2.3 **Hazardous Materials.** If the presence of asbestos or other hazardous materials exists or is detected at a Service Location or within the building where the Service Location is located, Comcast may immediately stop providing Services until such a time as such materials are removed. Alternatively Customer may notify Comcast to install the applicable portion of the Service in areas of any such Service Location not containing such hazardous material. Any additional expense incurred by Comcast as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer. Customer shall use reasonable efforts to maintain its property and Service Locations in a manner that preserves the integrity of the Services.

During normal business hours and within facility security parameters.

2.4 **Comcast Equipment.** ~~At any time~~ Comcast may remove or change Comcast Equipment in its sole discretion in connection with providing the Services. Customer shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Comcast Equipment or permit others to do so, and shall not use the Comcast Equipment for any purpose other than that authorized by the Agreement. Comcast shall maintain Comcast Equipment in good operating condition during the term of this Agreement; provided, however, that such maintenance shall be at Comcast's expense only to the extent that it is related to and/or resulting from the ordinary and proper use of the Comcast Equipment. Customer is responsible for damage to, or loss of, Comcast Equipment caused by its acts or omissions, and its noncompliance with this Article, or by fire, theft or other casualty at the Service Location(s), unless caused by the gross negligence or willful misconduct of Comcast.

2.5 **Ownership, Impairment and Removal of Network.** The Network is and shall remain the property of Comcast regardless of

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whether installed within or upon the Service Location(s) and whether installed overhead, above, or underground and shall not be considered a fixture or an addition to the land or the Service Location(s) located thereon. Customer agrees that it shall take no action that directly or indirectly impairs Comcast's title to the Network, or any portion thereof, or exposes Comcast to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude Comcast from using the Network for services provided to other Comcast customers. For a period of twelve (12) months following Comcast's discontinuance of Service to the Service Location(s), Comcast retains the right to remove the Network including, but not limited to, that portion of the Network that is located in the Service Location. To the extent Comcast removes such portion of the Network it shall be responsible for returning the Service Location(s) to its prior condition, reasonable wear and tear excepted.

2.6 **Customer Provided Equipment ("CE").** Comcast shall have no obligation to install, operate, or maintain CE. Customer shall have sole responsibility for providing maintenance, repair, operation and replacement of all CE, inside telephone wiring and other Customer equipment and facilities on the Customer's side of the Demarcation Point. Neither Comcast nor its employees, Affiliates, agents or contractors will be liable for any damage, loss, or destruction to CE, unless caused by the gross negligence or willful misconduct of Comcast. CE shall at all times be compatible with the Network as determined by Comcast in its sole discretion. In addition to any other service charges that may be imposed from time to time, Customer shall be responsible for the payment of service charges for visits by Comcast's employees or agents to a Service Location when the service difficulty or trouble report results from the use of CE or facilities provided by any party other than Comcast.

2.7 **Engineering Review.** Each Sales Order submitted by Customer may be subject to an engineering review. The engineering review will determine whether and to what extent the Network must be extended, built or upgraded ("Custom Installation") in order to provide the ordered Services at the requested Service Location(s). Comcast will provide Customer written notification in the event Service installation at any Service Location will require an additional non-recurring installation fee ("Custom Installation Fee"). Custom Installation Fees may also be referred to as Construction Charges on a Service Order or Invoice. Customer will have five (5) days from receipt of such notice to reject the Custom Installation Fee and terminate, without further liability, the Sales Order with respect to the affected Service Location(s). For certain Services, the Engineering Review will be conducted prior to Sales Order submission. In such case, Customer will have accepted the designated Custom Installation Fee upon submission of the applicable Sales Order.

2.8 **Service Acceptance.** Except as may otherwise be identified in the applicable PSA, the Service Commencement Date shall be the date Comcast completes installation and connection of the necessary facilities and equipment to provide the Service at a Service Location.

2.9 **Administrative Website.** Comcast may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Website. Customer shall be responsible for the confidentiality and use of such user identifications and/or passwords and shall immediately notify Comcast if there has been an unauthorized release, use or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Website. Customer shall be solely responsible for all use of the Administrative Website, and Comcast shall be entitled to rely on all Customer uses of and submissions to the Administrative Website as authorized by Customer. Comcast shall not be liable for any loss, cost, expense or other liability arising out of any Customer use of the Administrative Website or any information on the Administrative Website. Comcast may change or discontinue the Administrative Website, or Customer's right to use the Administrative Website, at any time. Additional terms and policies may apply to Customer's use of the Administrative Website. These terms and policies will be posted on the site.

ARTICLE 3. BILLING AND PAYMENT

3.1 **Charges.** Except as otherwise provided in the applicable PSA, Customer shall pay Comcast one hundred percent (100%) of the Custom Installation Fee ~~prior to the installation of Service~~. Customer further agrees to pay all charges associated with the Services, as set forth or referenced in the applicable PSA, Sales Order(s) or invoice from Comcast. These charges may include, but are not limited to standard and custom non-recurring installation charges, monthly recurring service charges, usage charges including without limitation charges for the use of Comcast Equipment, per-call charges, pay-per-view charges, charges for service calls, maintenance and repair charges, and applicable federal, state, and local ~~taxes~~, fees, surcharges and recoupments (however designated). Some Services such as measured and per-call charges, pay-per-view movies or events, and interactive television (as explained in the applicable PSA) may be invoiced after the Service has been provided to Customer. Except as otherwise indicated herein or in the applicable PSA(s) monthly recurring charges for Ethernet, Video and Internet Services that are identified on a Sales Order shall not increase during the Service Term. Except as otherwise indicated herein or in the Sales Order(s), Voice Service pricing, charges and fees can be found in the applicable PSA.

3.2 **Third-Party Charges.** Customer may incur charges from third party service providers that are separate and apart from, or based on the amounts charged by Comcast. These may include, without limitation, charges resulting from wireless services including roaming charges, accessing on-line services, calls to parties who charge for their telephone based services, purchasing or subscribing to other offerings via the Internet or interactive options on certain Video services, or otherwise. Customer agrees that all such charges, ~~including all applicable taxes~~, are Customer's sole responsibility. In addition, Customer is solely responsible for protecting the security of credit card information provided to others in connection with such transactions.

3.3 **Payment of Bills.** Except as otherwise indicated herein or in a PSA, Comcast will invoice Customer in advance on a monthly basis for all monthly recurring charges and fees arising under the

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Agreement. All other charges will be billed monthly in arrears, including without limitation certain usage based charges and third party pass through fees. Payment is due upon presentation of an invoice. Payment will be considered timely made to Comcast if received within thirty (30) days after the invoice date. Any charges not paid to Comcast within such period will be considered past due. If a Service Commencement Date is not the first day of a billing period, Customer's first monthly invoice shall include any pro-rated charges for the Services, from the date of installation to the start of the next billing period. In certain cases, Comcast may agree to provide billing services on behalf of third parties, as the agent of the third party. Any such third-party charges shall be payable pursuant to any contract or other arrangement between the third party and Customer and/or Comcast. Comcast shall not be responsible for any dispute regarding these charges between Customer and such third party. Customer must address all such disputes directly with the third party.

3.4 **Partial Payment.** Partial payment of any bill will be applied to the Customer's outstanding charges in amounts and proportions solely determined by Comcast. No acceptance of partial payment(s) by Comcast shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

3.5 **Credit Approval and Deposits.** Initial and ongoing delivery of Services may be subject to credit approval. Customer shall provide Comcast with credit information requested by Comcast. Customer authorizes Comcast to make inquiries and to receive information about Customer's credit history from others and to enter this information in Customer's records. Customer represents and warrants that all credit information that it provides to Comcast will be true and correct. Comcast, in its sole discretion, may deny the Services based upon an unsatisfactory credit history. Additionally, subject to applicable regulations, Comcast may require Customer to make a deposit (in an amount not to exceed an estimated two months charge for the Services) as a condition to Comcast's provision of the Services, or as a condition to Comcast's continuation of the Services. The deposit will not, unless explicitly required by law, bear interest and shall be held by Comcast as security for payment of Customer's charges. Comcast may apply the deposit to any delinquent Customer charges upon written notice to Customer. If Comcast uses any or all of the deposit to pay an account delinquency, Customer will replenish the deposit by that amount within five (5) days of its receipt of written notice from Comcast. If the provision of Service to Customer is terminated, or if Comcast determines in its sole discretion that such deposit is no longer necessary, then the amount of the deposit (plus any required deposit interest) will be credited to Customer's account or will be refunded to Customer, as determined by Comcast.

3.6 **Taxes and Fees.** ~~E~~ er provides ~~a valid tax exemption~~ ~~if~~ ~~of Service,~~ ~~Customer shall be responsib~~ ~~y and all~~ ~~applicable local, state, and~~ ~~(however~~ ~~designated). Customer also w~~ ~~y Service~~ ~~fees, payment obligations~~ ~~applicable~~ ~~retroactively.~~

Tax Exempt Certificate Provided.

3.7 **Other Government-Related Costs and Fees.** Comcast reserves the right to invoice Customer for any fees or payment obligations in connection with the Services imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of the Services, including, without limitation, applicable franchise fees, right of way fees and universal service fund charges (if any), regardless of whether Comcast or its Affiliates pay the fees directly or are required by an order, rule, or regulation of a taxing jurisdiction to collect them from Customer. ~~Taxes and other~~ government-related fees and surcharges may be changed with or without notice, In the event that any newly adopted law, rule, regulation or judgment increases Comcast's costs of providing Services, Customer shall pay Comcast's additional costs of providing Services under the new law, rule, regulation or judgment.

3.8 **Disputed Invoice.** If Customer disputes any portion of an invoice by the due date, Customer must pay ~~fifty percent (50%) of the disputed charges, in addition~~ to the undisputed portion of the invoice and submit a written claim, including all documentation substantiating Customer's claim, to Comcast for the disputed amount of the invoice by the invoice due date. The Parties shall negotiate in good faith to resolve any billing dispute. Comcast will refund/credit all valid disputes resolved in Customer's favor as of the date the disputed charges first appeared on the Customer's invoice.

3.9 **Past-Due Amounts.** Any payment not made when due will be subject to a late charge of 1.5% per month or the highest rate allowed by law on the unpaid invoice, whichever is lower. If Customer's account is delinquent, Comcast may refer the account to a collection agency or attorney that may pursue collection of the past due amount and/or any Comcast Equipment that Customer fails to return in accordance with the Agreement. ~~If Comcast is required to use a collection agency or attorney to collect any amount owed by Customer or any unreturned Comcast Equipment, Customer agrees to pay all reasonable costs of collection or other action. The remedies set forth herein are in addition to and not in limitation of any other rights and remedies available to Comcast under this Agreement or at law or in equity.~~

0.75% is allowed by law.

3.10 **Rejected Payments.** Except to the extent otherwise prohibited by law, Customer will be assessed a service charge up to the full amount permitted under applicable law for any check or other instrument used to pay for the Services that has been rejected by the bank or other financial institution.

3.11 **Fraudulent Use of Services.** Customer is responsible for all charges attributable to Customer with respect to the Service(s), even if incurred as the result of fraudulent or unauthorized use of the Service. Comcast may, but is not obligated to, detect or report unauthorized or fraudulent use of Services to Customer. Comcast reserves the right to restrict, suspend or discontinue providing any Service in the event of fraudulent use of Customer's Service.

ARTICLE 4. TERM; REVENUE COMMITMENT

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4.1 **Agreement Term.** Upon execution of the Agreement, Customer shall be allowed to submit Sales Orders to Comcast during the term referenced on the SOM Contract Purchase. After the expiration of the initial ~~MSA~~ Term, Comcast may continue to accept ~~Sales~~ Orders from Customer under the Agreement, or require the Parties to execute a new agreement. This Agreement shall continue in effect until the expiration or termination date of the last ~~Sales~~ Order entered under the Agreement, unless terminated earlier in accordance with the Agreement.

Purchase Contract

4.2 **Sales Order Term/~~Revenue Commitment~~:** The applicable Service Term ~~and Revenue Commitment~~ (if any) shall be set forth in the ~~Sales~~ Order. Unless otherwise stated in these terms and conditions ~~or the applicable PSA~~, if a ~~Sales~~ Order does not specify a term of service, the Service Term shall be one (1) year from the Service Commencement Date. ~~In the event Customer fails to satisfy a Revenue Commitment, Customer will be billed a shortfall charge pursuant to the terms of the applicable PSA.~~

4.3 **Sales Order Renewal.** Upon the expiration of the Service Term, and unless otherwise agreed to by the Parties in the ~~Sales~~ Order, each ~~Sales~~ Order shall automatically renew for successive periods of one (1) year each ("Renewal Term(s)"), unless otherwise stated in these terms and conditions or prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the Service Term and from time to time thereafter, Comcast may, modify the charges for Ethernet, Internet and/or Video Services subject to thirty (30) days prior written notice to Customer. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing.

ARTICLE 5. TERMINATION WITHOUT FAULT; DEFAULT

5.1 **Termination for Convenience.** ~~Notwithstanding any other term or provision in the Agreement, Customer shall have the right, in its sole discretion, to terminate an~~ ~~any time during the Service Term(s), u~~ ~~written notice to Comcast and subject to p~~ ~~outstanding amounts due for the Service~~ ~~Termination Charges, and the return of~~ ~~Equipment. Comcast may terminate the~~ ~~does not take any Service under a Sales Order for twelve (12) consecutive months or longer.~~

See State of Michigan (SOM) Contract Termination clauses.

5.2 **Termination for Cause.** ~~If either Party breaches any material term of the Agreement, other than a payment term, and the breach continues un-remedied for thirty (30) days after written notice of default, the other Party may terminate for cause any Sales Order materially affected by the breach. If Customer is in breach of a payment obligation (including failure to pay a required deposit) and fails to make payment in full within ten (10) days after receipt of written notice of default, Comcast may, at its option, terminate the Agreement, terminate the affected Sales Orders, suspend Service under the affected Sales Orders, and/or require a deposit, advance payment, or other satisfactory assurances in connection with any or all Sales Orders as a condition of continuing to provide Service, except that Comcast will not take any such action as a result of Customer's non-payment of a charge subject to a timely billing dispute, unless Comcast has reviewed the dispute and determined in good faith that the charge is correct. A Sales Order may be terminated by either Party immediately upon written notice if the other Party has become insolvent or involved in liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors. Termination by either Party of a Sales Order does not waive any other rights or remedies that it may have under this Agreement. The non-defaulting Party shall be entitled to all available legal and equitable remedies for such breach.~~

5.3 **Effect of Expiration/Termination of a Sales Order.**

Upon the expiration or termination of a ~~Sales~~ Order for any reason:

A. Comcast shall disconnect the applicable Service;

B. Comcast may delete all applicable data, files, electronic messages, or other information stored on Comcast's servers or systems;

C. If Customer has terminated the ~~Sales~~ Order prior to the expiration of the Service Term for convenience, or if Comcast has terminated the ~~Sales~~ Order prior to the expiration of the Service Term as a result of material breach by Customer, Comcast may assess and collect from Customer applicable ~~Termination~~ Charges (if any);

D. Customer shall, permit Comcast to retrieve from the applicable Service Location any and all Comcast Equipment. If Customer fails to permit such retrieval or if the retrieved Comcast Equipment has been damaged and/or destroyed other than by Comcast or its agents, normal wear and tear excepted, Comcast may invoice Customer for the manufacturer's list price of the relevant Comcast Equipment, or in the event of minor damage to the retrieved Comcast Equipment, the cost of repair, which amounts shall be immediately due and payable; and

E. Customer's right to use applicable Licensed Software shall automatically terminate, and Customer shall be obligated to return all Licensed Software to Comcast.

5.4 **Resumption of Service.** If a Service has been discontinued by Comcast for cause and Customer requests that the Service be restored, Comcast shall have the sole and absolute discretion to restore such Service. At Comcast's option, deposits, advanced payments, nonrecurring charges, and/or an extended Service Term may apply to restoration of Service.

5.5 **Regulatory and Legal Changes.** The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement upon its execution are based on applicable law and regulations as they exist on the date of execution of this Agreement. The Parties agree that in the event of any subsequent decision by a legislative, regulatory or judicial body,

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including any regulatory or judicial order, rule, regulation, decision in any arbitration or other dispute resolution or other legal or regulatory action that materially affects the provisions or ability to provide Services on economic terms of the Agreement, Comcast may, by providing written notice to the Customer, require that the affected provisions of the Agreement be renegotiated in good faith. If Customer refuses to enter such renegotiations, or the Parties can't reach resolution on new Agreement terms, Comcast may, in its sole discretion, terminate this Agreement, in whole or in part, upon sixty (60) days written notice to Customer.

ARTICLE 6. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES; WARNINGS

6.1 ~~Limitation of Liability~~.

A. ~~THE AGGREGATE LIABILITY OF COMCAST FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PERFORMANCE OF SERVICE, AND NOT OTHERWISE LIMITED HEREUNDER, [illegible] CONTRACT, TORT, OR OTHERWISE, [illegible] DIRECT DAMAGES EQUAL TO THE SUM [illegible] MADE BY CUSTOMER TO COMCAST DU[illegible] MONTHS IMMEDIATELY PRECEDING [illegible] WHICH DAMAGES ARE CLAIMED. [illegible] SHALL NOT APPLY TO COMCAST'S INDEMNIFICATION OBLIGATIONS AND CLAIMS FOR DAMAGE TO PROPERTY AND/OR PERSONAL INJURIES (INCLUDING DEATH) ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF COMCAST WHILE ON THE CUSTOMER SERVICE LOCATION.~~

See SOM Contract for Liability language.

B. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT HOWEVER, THAT NOTHING HEREIN IS INTENDED TO LIMIT CUSTOMER'S LIABILITY FOR AMOUNTS OWED FOR THE SERVICES, FOR ANY EQUIPMENT OR SOFTWARE PROVIDED BY COMCAST OR FOR EARLY TERMINATION CHARGES.

6.2 Disclaimer of Warranties.

A. Services shall be provided pursuant to the terms and conditions in the Contract/PO and Service Level Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. To the maximum extent allowed by law, Comcast expressly disclaims all such express, implied and statutory warranties.

Contract/PO

B. Without limiting the generality of the foregoing, and except as otherwise identified in a PSA or Service Level Agreement, Comcast does not warrant that the Services, Comcast Equipment, or Licensed Software will be uninterrupted, error-free, or free of latency or delay, or that the Services, Comcast Equipment, or Licensed Software will meet customer's requirements, or that the Services, Comcast Equipment, or Licensed Software will prevent unauthorized access by third parties.

C. In no event shall Comcast, be liable for any loss, damage or claim arising out of or related to: (i) stored, transmitted, or recorded data, files, or software; (ii) any act or omission of Customer, its users or third parties; (iii) interoperability, interaction or interconnection of the Services with applications, equipment, services or networks provided by Customer or third parties; or (iv) loss or destruction of any Customer hardware, software, files or data resulting from any virus or other harmful feature or from any attempt to remove it. Customer is advised to back up all data, files and software prior to the installation of Service and at regular intervals thereafter.

6.3 Disruption of Service. Notwithstanding the performance standards identified in a PSA, the Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required.

6.4 Customer's sole and exclusive remedies are expressly set forth in the Agreement. Certain of the above exclusions may not apply if the state in which a Service is provided does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Comcast is limited to the maximum extent permitted by law.

ARTICLE 7. INDEMNIFICATION

See SOM Contract Indemnification Clause.

7.1 Comcast's Indemnification Obligations. Comcast shall indemnify defend, and hold harmless Customer and its parent company, affiliates, employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorneys' fees) ("Claims") incurred as a result of: infringement of U.S. patent or copyright relating to the Comcast Equipment or Comcast Licensed Software hereunder; damage to tangible personal property or real property, and personal injuries (including death) arising out of the gross negligence or willful misconduct of Comcast while working on the Customer Service Location.

~~7.2 Customer's Indemnification Obligations. Customer shall indemnify, defend, and hold harmless Comcast from any and all Claims arising on account of or in connection with Customer's use or sharing of the Service provided under the Agreement, including with respect to: libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the Service; for patent infringement arising from Customer's combining or connection of CE to use the Service; for damage arising out of the gross negligence or willful misconduct of Customer with respect to users of the Service.~~

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~~7.3 Indemnification Procedures. The Indemnifying Party agrees to defend the Indemnified Party for any loss, injury, liability, claim or demand ("Actions") that is the subject of this Article 7. The Indemnified Party agrees to notify the Indemnifying Party promptly, in writing, of any Actions, threatened or actual, and to cooperate in the way to facilitate the defense or settlement of such Indemnifying Party shall assume the defense of any nsel reasonably satisfactory to the Indemnified Party. d Party may employ its own counsel in any such ll pay such counsel's fees and expenses. The arty shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.~~

See SOM Contract Indemnification Procedures.

ARTICLE 8. SOFTWARE & SERVICES

8.1 License. If and to the extent that Customer requires the use of Licensed Software in order to use the Service supplied under any Sales Order, Customer shall have a ~~personal~~, nonexclusive, ~~non~~transferable, and limited license to use such Licensed Software in object code only and solely to the extent necessary to use the applicable Service during the corresponding Service Term. All Licensed Software provided to Customer, and each revised version thereof, is licensed (not sold) to Customer by Comcast only for use in conjunction with the Service. Customer may not claim title to, or an ownership interest in, any Licensed Software (or any derivations or improvements thereto), and Customer shall execute any documentation reasonably required by Comcast, including, without limitation, end-user license agreements for the Licensed Software. Comcast and its suppliers shall retain ownership of the Licensed Software, and no rights are granted to Customer other than a license to use the Licensed Software under the terms expressly set forth in this Agreement.

8.2 Restrictions. Customer agrees that it shall not: (i) copy the Licensed Software (or any upgrades thereto or related written materials) except for emergency back-up purposes or as permitted by the express written consent of Comcast; (ii) reverse engineer, decompile, or disassemble the Licensed Software; (iii) sell, lease, license, or sublicense the Licensed Software; or (iv) create, write, or develop any derivative software or any other software program based on the Licensed Software.

8.3 Updates. Customer acknowledges that the use of Service may periodically require updates and/or changes to certain Licensed Software resident in the Comcast Equipment or CE. If Comcast has agreed to provide updates and changes, such updates and changes may be performed remotely or on-site by Comcast, at Comcast's sole option. Customer hereby consents to, and shall provide free access for, such updates deemed reasonably necessary by Comcast. If Customer fails to agree to such updates, Comcast will be excused from the applicable Service Level Agreement and other performance credits, and any and all liability and indemnification obligations regarding the applicable Service.

8.4 Export Law and Regulation. Customer acknowledges that any products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations. Customer agrees that it will not use distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Comcast, Customer also agrees to sign written assurances and other export-related documents as may be required for Comcast to comply with U.S. export regulations.

8.5 Ownership of Telephone Numbers and Addresses. Customer acknowledges that use of certain Services does not give it any ownership or other rights in any telephone number or Internet/on-line addresses provided, including but not limited to Internet Protocol ("IP") addresses, e-mail addresses and web addresses.

8.6 Intellectual Property Rights in the Services. Title and intellectual property rights to the Services are owned by Comcast, its agents, suppliers or affiliates or their licensors or otherwise by the owners of such material. The copying, redistribution, bundling or publication of the Services, in whole or in part, without express prior written consent from Comcast or other owner of such material, is prohibited.

ARTICLE 9. CONFIDENTIAL INFORMATION AND PRIVACY

9.1 Disclosure and Use. All Confidential Information disclosed by either Party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third party without the disclosing party's express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement, using the Services, rendering the Services, and marketing related products and services (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each Party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care.

9.2 Exceptions. Notwithstanding the foregoing, each Party's confidentiality obligations hereunder shall not apply to information that: (i) is already known to the receiving party without a pre-existing restriction as to disclosure; (ii) is or becomes publicly available without fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party; (iv) is developed independently by the receiving party without use of the disclosing party's Confidential Information; or (v) is required to be disclosed by law or regulation.

9.3 Publicity. The Agreement provides no right to use any Party's or its affiliates' trademarks, service marks, or trade names, or to otherwise refer to the other Party in any marketing,

; or (vi) is subject to disclosure through the Michigan Freedom of Information Act

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promotional, or advertising materials or activities. Neither Party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between Comcast and Customer, except as permitted by the Agreement or otherwise consented to in writing by the other Party. Notwithstanding the foregoing, Comcast may include Customer's name on Comcast's customer lists together with a description of Services purchased (financial terms not to be disclosed). If Customer wishes to remove Customer's name from such list or to limit the foregoing use of Customer's name, Customer may contact Comcast as set forth in Article 11.3 of these General Terms and Conditions and Comcast will effect such removal.

9.4 **Passwords.** Comcast may furnish Customer with user identifications and passwords for use in conjunction with certain Services, including, without limitation, for access to certain non-public Comcast website materials. Customer understands and agrees that such information shall be subject to Comcast's access *policies and procedures* located on Comcast's Web Site.

9.5 **Remedies.** Notwithstanding any other Article of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests pursuant to this Article 9, including, but not limited to, injunctive relief.

9.6 **Monitoring of Services.** Except as otherwise expressly set forth in a PSA, Comcast assumes no obligation to pre-screen or monitor Customer's use of the Service, including without limitation postings and/or transmission. However, Customer acknowledges and agrees that Comcast and its agents shall have the right to pre-screen and monitor such use from time to time and to use and disclose such results to the extent necessary to operate the Service properly, to ensure compliance with applicable use policies, to protect the rights and/or property of Comcast, or in emergencies when physical safety is at issue, and that Comcast may disclose the same to the extent necessary to satisfy any law, regulation, or governmental request. Comcast shall have no liability or responsibility for content received or distributed by Customer or its users through the Service, and Customer shall indemnify, defend, and hold Comcast and its directors, officers, employees, agents, subsidiaries, affiliates, successors, and assigns harmless from any and all claims, damages, and expenses whatsoever (including reasonable attorneys' fees) arising from such content attributable to Customer or its users.

9.7 **Survival of Confidentiality Obligations.** The obligations of confidentiality and limitation of use described in this Article 9 shall survive the expiration and termination of the Agreement for a period of two (2) years (or such longer period as may be required by law).

ARTICLE 10. USE OF SERVICE; USE AND PRIVACY POLICIES

10.1 **Prohibited Uses and Comcast Use Policies.** Customer is prohibited from using, or permitting the use of, any Service (i) for any purpose in violation of any law, rule, regulation, or policy of any government authority; (ii) in violation of any Use Policy (as defined below); (iii) for any use as to which Customer has not obtained all required government approvals, authorizations, licenses, consents, and permits; or (iv) to interfere unreasonably with the use of Comcast service by others or the operation of the Network. Customer is responsible for assuring that any and all of its users comply with the provisions of the Agreement. Comcast reserves the right to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if Comcast determines that such use is prohibited as identified herein, or information does not conform with the requirements set or Comcast reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use. Furthermore, to the extent applicable, Services shall be subject to Comcast's acceptable use policies ("Use Policies") that may limit use. The Use Policies and other security policies concerning the Services are posted on the Website, and are incorporated into this Agreement by reference. Comcast may update the Use Policies from time to time, and such updates shall be deemed effective immediately upon posting, with or without actual notice to Customer. Comcast's action or inaction in enforcing acceptable use shall not constitute review or approval of Customer's or any other users' use or information.

10.2 **Privacy Policy.** In addition to the provisions of Article 9, Comcast's commercial privacy policy applies to Comcast's handling of Customer confidential information. Comcast's privacy policy is available on the Website.

10.3 **Privacy Note Regarding Information Provided to Third Parties.** Comcast is not responsible for any information provided by Customer to third parties. Such information is not subject to the privacy provisions of this Agreement. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

10.4 **Prohibition on Resale.** Customer may not sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof.

10.5 **Violation.** Any breach of this Article 10 shall be deemed a material breach of this Agreement. In the event of such material breach, Comcast shall have the right to restrict, suspend, or terminate immediately any or all Sales Orders, without liability on the part of Comcast, and then to notify Customer of the action that Comcast has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement.

ARTICLE 11. MISCELLANEOUS TERMS

11.1 **Force Majeure.** Neither Party (and in the case of Comcast, Comcast affiliates and subsidiaries) shall be liable to the other Party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cut, acts of regulatory or governmental agencies, unavailability of right-of-way, unavailability of right-of-way or materials, or other causes beyond the Party's reasonable control, except that Customer's obligation to pay for Services provided under the Agreement shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

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11.2 Assignment or Transfer. ~~Customer shall not~~ assign any right, obligation or duty, in whole or in part, nor of any other interest hereunder, without the prior written consent of the other Party, which shall not be unreasonably withheld. All obligations and duties of either Party under this Agreement shall be binding on all successors in interest and assigns of such Party. Nothing herein is intended to limit Comcast's use of third-party consultants and contractors to perform Services under a Sales Order.

11.3 Notices. Any notice sent pursuant to the Agreement shall be deemed given and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service, in each case as follows: (i) with respect to

either party in accordance with SOM Contract Notices, Section 2.025.

11.4 Entire Understanding. The Contract together with any ~~applicable Tariffs~~, constitutes the entire understanding of the Parties related to the subject matter hereof. The Contract supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning the Services or the Parties' rights or obligations relating to Services. Any prior representations, promises, inducements, or statements of intent regarding the Services that are not embodied in the Contract are of no effect. No subsequent agreement among the Parties concerning Service shall be effective or binding unless it is made in writing by authorized representatives of the Parties. Terms or conditions contained in any Sales Order, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

11.5 Tariffs. Notwithstanding anything to the contrary in the Agreement, Comcast may elect or be required to file with regulatory agencies tariffs for certain Services. In such event, the terms set forth in the Contract ~~and/or applicable law, be~~ supersed~~ed by~~ the terms and conditions of the Tariffs. Without limiting the generality of the foregoing, in the event of any inconsistency with respect to rates, the rates and other terms set forth in the applicable Sales Order shall be treated as individual case based arrangements to the maximum extent permitted by law, and Comcast shall take such steps as are required by law to make the rates and other terms enforceable. If Comcast voluntarily or involuntarily cancels or withdraws a Tariff under which a Service is provided to Customer, the Service will thereafter be provided pursuant to the Contract and the terms and conditions contained ~~in~~ therein ~~effectively prior to its cancellation or withdrawal~~. In the event that Comcast is required by a governmental authority to modify a Tariff under which Service is provided to Customer in a manner that is material and adverse to either Party, the affected Party may terminate the applicable Sales Order upon a minimum thirty (30) days' prior written notice to the other Party, without further liability

11.6 Construction. In the event that any portion of the Agreement is held to be invalid or unenforceable, the Parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the Parties, and the remainder of the Agreement shall remain in full force and effect.

11.7 Survival. The rights and obligations of either Party that by their nature would continue beyond the expiration or termination of a Sales Order shall survive termination or expiration of the Sales Order.

11.8 Choice of Law. The domestic law of the state in which the Service is provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law.

11.9 No Third Party Beneficiaries. This Agreement does not expressly or implicitly provide any third party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

on the SOM Contract

11.10 Parties' Authority to Contract. The persons whose signatures appear ~~below~~ are duly authorized to enter into the Agreement on behalf of the Parties name therein.

11.11 No Waiver; Etc. No failure by either Party to enforce any rights hereunder shall constitute a waiver of such right(s). This Agreement may be executed in counterpart copies.

11.12 Independent Contractors. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

1.13 Article Headings. The article headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

11.14 Compliance with Laws. Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

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