



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

CONTRACT CHANGE NOTICE

Change Notice Number **8**
to
Contract Number **071B3200098**

CONTRACTOR	US BANK NATIONAL ASSOCIATION
	200 South Sixth Street
	Minneapolis, MN 55402
	Mark Hess
	612-973-1655
	mark.hess1@usbank.com
	*****1368

STATE	Program Manager	Scott Ratterree	MDOT
		(517) 284-6444	
	Contract Administrator	RatterreeS@michigan.gov	
		Mike Kennedy	DTMB
		(517) 284-6397	
		kennedym6@michigan.gov	

CONTRACT SUMMARY

FUEL CARD SERVICES - STATEWIDE			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2 - 1 Year	December 31, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
0.15 NET 10		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	10 Months	October 31, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$27,619,496.33	\$0.00	\$27,619,496.33		

DESCRIPTION

Effective January 1, 2017 the Contract is hereby extended for 10 months per Chapter 5 Policy for useful life; the revised expiration date is October 31, 2017.

Program Manager/Contract Compliance Inspector and Project Manager is changed to Scott Ratterree (Section 2.022 & 2.023).

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

E-SIGNED by Michael Leppones



STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET
 PROCUREMENT

525 W. ALLEGAN STREET
 LANSING, MI 48933

P.O. BOX 30026
 LANSING, MI 48909

CHANGE NOTICE NO. 7
 to
 CONTRACT NO. 071B3200098
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
U.S. Bank Association 200 South Sixth Street Minneapolis, MN 55402	Mark Hess	mark.hess1@usbank.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	612-436-6544	*****1368

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	David Ancell	517-322-5051	ancelld@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Mike Kennedy	517-284-6397	kennedym6@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Fuel Card Services - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2 - 1 Year	September 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
.15% - 10 Days		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	3 Months	December 31, 2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$27,619,496.33		\$ 0.00	\$27,619,496.33	

DESCRIPTION:

Effective September 30, 2016 the Contract is hereby extended for three months per section 2.171 of the Contract, the revised expiration date is December 31, 2016. Please note that the Contract Administer has been updated to Mike Kennedy, and the Primary Contact's phone number has been updated. All other terms, conditions, specifications and pricing remain the same. Per DTMB contractor and agency agreement, and DTMB Procurement approval.

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

CHANGE NOTICE NO. 6
 to
CONTRACT NO. 071B3200098
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
U.S Bank Association 200 South Sixth Street Minneapolis, MN 55402	Mark a. Hess	Mark.hess1@usbank.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(612) 973-1655	1368

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	David Ancell	517-322-5051	AncellD@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Brandon Samuel	517-284-7025	samuelb@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Fuel Card Services - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2, one year	September 30, 2015
PAYMENT TERMS	F.O.B.	SHIPPED TO	
.15% - 10 days	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 year	September 30, 2016
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$ 27,619,496.33		\$ 0.00	\$ 27,619,496.33	

DESCRIPTION:
 Effective June 30, 2015, the second option year available on this contract is hereby exercised. The revised contract expiration date is September 30, 2016.

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

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

CHANGE NOTICE NO. 5
 to
CONTRACT NO. 071B3200098
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
U.S. Bank National Association 200 South Sixth Street Minneapolis, MN 55402	Mark A. Hess	mark.hess1@usbank.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(612) 973-1655	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	David Ancell	517-322-5051	AncellD@michigan.gov
BUYER	DTMB	Brandon Samuel	517-284-7025	samuelb@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Fuel Card Services - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2, one year	December 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
.15% - 10 Days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9 months	September 30, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$27,619,496.33		
Effective December 23, 2014, this Contract is hereby extended 9 months. The revised Contract expiration date is September 30, 2015. All other terms, conditions, specifications and pricing remain the same. Per DTMB request and contractor agreement, and DTMB Procurement approval.				

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

CHANGE NOTICE NO. 4
 to
CONTRACT NO. 071B3200098
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
U.S. Bank National Association 200 South Sixth Street Minneapolis, MN 55402	Mark A. Hess	mark.hess1@usbank.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(612) 973-1655	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	David Ancell	517-322-5051	AncellD@michigan.gov
BUYER	DTMB	Brandon Samuel	517-241-1218	samuelb@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Fuel Card Services - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2, one year	September 30, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
.15% - 10 Days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	90 days	December 31, 2014
VALUE/COST OF CHANGE NOTICE:			ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	
\$0.00			\$27,619,496.33	

Effective September 25, 2014, this Contract is hereby Extended 90 days. The REVISED Contract expiration date is December 31, 2014. All other terms, conditions, specifications and pricing remain the same. Per DTMB request and contractor agreement, and DTMB Procurement approval.

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B3200098
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
U.S. Bank National Association 200 South Sixth Street Minneapolis, MN 55402	Mark A. Hess	mark.hess1@usbank.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(612) 973-1655	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	David Ancell	517-322-5051	AncellD@michigan.gov
BUYER	DTMB	Brandon Samuel	517-241-1218	samuelb@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Fuel Card Services - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2011	September 30, 2014	2, one year	September 30, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
.15% - 10 Days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:			ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	
\$0.00			\$27,619,496.33	

Effective November 4, 2013, the vendor contact person for this contract has been changed to:

Mark A. Hess
 Phone: (612) 973-1655 Email: mark.hess1@usbank.com

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

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48913

CHANGE OF CONTRACTOR NAME AND OR TAX IDENTIFICATION NUMBER

CONTRACT NO. 071B2200006

hereafter referred as

CONTRACT NO. 071B3200098

between

THE STATE OF MICHIGAN

and

CURRENT NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
U.S. Bank National Association 200 South Sixth Street Minneapolis, MN 55402	Tom Horgan	Thomas.horgan@usbank.com
	TELEPHONE	NEW CONTRACTOR #, MAIL CODE
	810-229-1660	

PREVIOUS NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
U.S. Bank National Association ND 200 South Sixth Street Minneapolis, MN 55402	Tom Horgan	Thomas.horgan@usbank.com
	TELEPHONE	PREVIOUS CONTRACTOR #, MAIL CODE
	810-229-1660	

DESCRIPTION OF CHANGE NOTICE:
<p>THE CONTRACTOR HAS NOTIFIED THE STATE OF MICHIGAN OF A CHANGE IN ITS BUSINESS NAME AND OR TAX IDENTIFICATION NUMBER. DUE TO THE INTERNAL SYSTEMS RELATED TO THE RELEASE OF CONTRACTOR PAYMENTS, A NEW CONTRACT NUMBER MUST BE ASSIGNED. THE NEW CONTRACT NUMBER IS 071B3200098. EXCEPT FOR THE NEWLY-ASSIGNED NUMBER, THE CONTRACT TERMS AND CONDITIONS REMAIN IN EFFECT.</p> <p>THIS CHANGE IS EFFECTIVE: June 1, 2013</p>
<p>\$27,619,496.33 REMAINING ON CONTRACT # 071B2200006 TO BE TRANSFERRED TO CONTRACT # 071B3200098</p>

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	David Ancell	517-322-5051	AncellD@michigan.gov
BUYER:	DTMB	Brandon Samuel	517-241-1218	samuelb@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION:			
Fuel Card Services - Statewide			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 Years	October 1, 2011	September 30, 2014	2, 1 Year Options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
.15% - 10 Days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

<p>FOR THE CONTRACTOR:</p> <p>_____</p> <p style="text-align: center;">U.S. Bank National Association</p> <p style="text-align: center;">Firm Name</p> <p>_____</p> <p style="text-align: center;">Authorized Agent Signature</p> <p>_____</p> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <p>_____</p> <p style="text-align: center;">Date</p>	<p>FOR THE STATE:</p> <p>_____</p> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Jeff Brownlee, Chief Procurement Officer</p> <p>_____</p> <p style="text-align: center;">Name/Title</p> <p style="text-align: center;">DTMB Procurement</p> <p>_____</p> <p style="text-align: center;">Enter Name of Agency</p> <p>_____</p> <p style="text-align: center;">Date</p>
---	---

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET October 27, 2011
 PURCHASING OPERATIONS
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B2200006
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR U.S. Bank National Association ND 200 South Sixth Street Minneapolis, MN 55402 <p style="text-align: right;">Email: Thomas.horgan@usbank.com</p>	TELEPHONE 810-229-1660 Tom Horgan CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1218 Brandon Samuel
Contract Compliance Inspector: David Ancell AncellD@michigan.gov 517-322-5051 Fuel Card Services - Statewide	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: October 1, 2011 To: September 30, 2014	
TERMS <p style="text-align: center;">.15% – 10 days</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.

NATURE OF CHANGE(S):

The State of Michigan is not responsible and liable for purchases, fees, finance charges, and other charges incurred or arising by MiDeal members.

AUTHORITY/REASON(S):

DTMB Purchasing Operations approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$28,002,544

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET October 13, 2011
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO.1
TO
CONTRACT NO. 071B2200006
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR U.S. Bank National Association ND 200 South Sixth Street Minneapolis, MN 55402		TELEPHONE 810-229-1660 Tom Horgan
		CONTRACTOR NUMBER/MAIL CODE
Email: Thomas.horgan@usbank.com		BUYER/CA (517) 241-1218 Brandon Samuel
Contract Compliance Inspector: David Ancell AncellD@michigan.gov 517-322-5051 Fuel Card Services - Statewide		
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: October 1, 2011 To: September 30, 2014		
TERMS .15% – 10 days	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other		
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION:		

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.

NATURE OF CHANGE(S):

Effective immediately, Attachment C is hereby incorporated into this contract. All other terms, conditions, pricing and specifications remain the same.

AUTHORITY/REASON(S):

Per vendor and agency agreement and DTMB Purchasing Operations approval.

TOTAL ESTIMATED CONTRACT VALUE: \$28,002,544

ATTACHMENT C

This Attachment C is part of Contract No. 071B2200006 for Fleet Card services (the “Contract”) between the State of Michigan (“the State”) and U.S. Bank National Association ND (“U.S. Bank”), by and on behalf of its wholly owned subsidiary, Voyager Fleet Systems Inc (“Voyager”).

REVENUE SHARE ADDENDUM

1. Voyager shall extend the following revenue sharing opportunities:

- a. **Performance Revenue Share.** Voyager will pay to each qualifying MiDEAL Member and each qualifying State Agency a portion of its Net Monthly Charge Volume through a Revenue Share (“**Performance Revenue Share**”). The Performance Revenue Share for each qualifying MiDEAL Member and each qualifying State Agency will be based on the Client Held Days Payment Performance for each Account of each MiDEAL Member and each State Agency for the Addendum Month. The Performance Revenue Share calculation will be made in accordance with the Table A, below.

Table A	
Client Held Days	Performance Revenue Share Percentage
0	0.2250%
1	0.2175%
2	0.2100%
3	0.2025%
4	0.1950%
5	0.1875%
6	0.1800%
7	0.1725%
8	0.1650%
9	0.1575%
10	0.1500%
11	0.1425%
12	0.1350%
13	0.1275%
14	0.1200%
15	0.1125%
16	0.1050%
17	0.0975%
18	0.0900%
19	0.0825%
20	0.0750%
21	0.0675%
22	0.0600%
23	0.0525%
24	0.0450%
25	0.0375%
26	0.0300%
27	0.0225%
28	0.0150%
29	0.0075%
30	0.0000%

- b. **Volume Revenue Share.** Voyager will pay to each qualifying MiDEAL Member and each qualifying State Agency a portion of its Net Monthly Charge Volume through a Revenue Share (“**Volume Revenue Share**”). The Volume Revenue Share will be based on the Aggregate Total Monthly Fuel Gallons of all Accounts. The Volume Revenue Share calculation will be made in accordance with Table B, below.

TABLE B	
Aggregate Total Monthly Fuel Gallons	Revenue Share % of Net Monthly Charge Volume
100,000 to 200,000	1.300%
200,001 to 300,000	1.700%
300,001 and above	1.800%

- c. **Revenue Share Eligibility.** The Revenue Share calculation for each MiDEAL Member or State Agency shall be contingent upon the following: (1) the Client Held Days Payment Performance for that MiDEAL Member or State Agency's Account Statements is equal to or less than thirty (30) Client Held Days, and (2) the Aggregate Total Monthly Fuel Gallons for all Accounts is equal to or greater than one hundred thousand (100,000) fuel gallons. Any Revenue Share payment made pursuant to this Revenue Share Addendum will be net of accumulated Charge-offs resulting from participation in Voyager or U.S. Bank National Association ND programs regardless of whether the underlying Contract between the parties is valid or has been terminated.
- d. **Revenue Share Calculation.** Voyager will calculate the Aggregate Total Monthly Fuel Gallons for all Accounts for the Addendum Month to find the Revenue Share Percentage on Table B for the Volume Revenue Share. Voyager will calculate the Client Held Days Payment Performance for each eligible Account for the same Addendum Month to find the Performance Revenue Share Percentage on Table A for the Performance Revenue Share. Monthly, Voyager will multiply the Total Revenue Share Percentage for each eligible Account by the Net Monthly Charge Volume for that same Addendum Month. The result will be the gross Revenue Share. Voyager will subtract any Charge-offs that have not been subtracted at any time during any of the past Addendum Month(s) from the gross Revenue Share. The result will be the net Revenue Share. Any Charge-offs in excess of the net Revenue Share from one (1) Addendum Month will be subtracted from one (1) or more of the following Addendum Months. Upon termination of the Contract, if the net Revenue Share is a negative dollar amount due to Charge-offs, Voyager may request, and State and/or each MiDEAL Member agrees to reimburse Voyager up to the dollar amount previously paid by Voyager to State, each MiDEAL Member, and/or each State Agency.
- e. **MiDEAL Member and State Agency Revenue Share Payment.** Voyager will pay to each qualifying MiDEAL Member and to each qualifying State Agency a Revenue Share in the form of a credit to that MiDEAL Member's or that State Agency's Voyager Accounts. The first Revenue Share payment to each qualifying MiDEAL Member and each qualifying State Agency, if any, shall be made within thirty (30) days after the end of the first (1st) Addendum Month. Subsequent calculations and payments, if any, shall be made in a similar fashion on each one (1) month anniversary of the first calculation. If any Revenue Share payment date falls on a non-business day, Revenue Share payments due shall be made on the next business day.

2. Incentive Payment Requirements.

- a. **Initial Incentive Payment.** Voyager shall pay the State an initial incentive payment ("**Initial Incentive Payment**") upon the execution by the parties of the Contract. The amount of the Initial Incentive Payment shall be one hundred thousand dollars (\$100,000.00).
- b. **Renewal Incentive Payments.** Voyager shall pay the State a first renewal incentive payment ("**Renewal Incentive Payment**") upon the execution by the parties of an amendment renewing the Contract for an additional one year term from October 1, 2014 through September 30, 2015. Voyager shall pay the State a second Renewal Incentive Payment upon the execution by the parties of an amendment renewing the Contract for a second additional one year term from October 1, 2015 through September 30, 2016. The amount of each Renewal Incentive Payment shall be twenty five thousand dollars (\$25,000.00).

3. **Definitions.** Capitalized terms used in this Revenue Share Addendum and not otherwise defined in this Revenue Share Addendum are used with the same respective meanings attributed thereto in the Contract.
- a. **“Account”** means any account number to which charges and payments may be posted for State including each MiDEAL Member and each State Agency.
 - b. **“Addendum Month”** means a one (1) calendar month period beginning with the first such period following the Effective Date of this Revenue Share Addendum.
 - c. **“Aggregate Net Monthly Charge Volume”** means all Charges set forth on the Statements furnished for all Accounts less fees, Fraudulent Charges, chargebacks, and Charge-off amounts by U.S. Bank with respect to such Accounts as uncollectible for each Addendum Month.
 - d. **“Aggregate Total Monthly Fuel Gallons”** means the total number of gallons of fuel purchased for all Accounts.
 - e. **“Charge”** means any account activity that has a debit value
 - f. **“Charge-off”** means any amount due and owing to Voyager or its Affiliates by State or any MiDEAL Member that remains unpaid for one hundred fifty (150) days after the date that it was first billed.
 - g. **“Client Held Days”** means the number of days from billing cycle date to the date Voyager applies payment (monthly per statement cycle average).
 - h. **“Client Held Days Payment Performance”** means the average speed of repayment of Charges made for each Addendum Month and will be calculated as File Turn Days Payment Performance less fifteen (15) days.
 - i. **“File Turn Days”** means the number of days from the date Voyager posts a Charge transaction to the date payment for that transaction is posted, inclusive of the beginning and ending dates
 - j. **“File Turn Days Payment Performance”** means the average speed of repayment of Charges made for each Addendum Month.
 - k. **“Fraudulent Charges”** means those Charges which are not initiated, authorized or otherwise requested by State, its Affiliates, and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit State, its Affiliates, and/or a Cardholder.
 - l. **“Performance Revenue Share”** means the portion of its Net Monthly Charge Volume that Voyager will pay to each qualifying MiDEAL Member and each qualifying State Agency based on Client Held Days Payment Performance.
 - m. **“Net Monthly Charge Volume”** means all charges set forth on the Statement furnished for each Account, less fees, Fraudulent Charges, chargebacks, and amounts Charged-off by Voyager with respect to such Accounts as uncollectible for each Addendum Month.
 - n. **“Qualifying MiDEAL Member”** means each MiDEAL Member that credit qualifies in accordance with U.S. Bank requirements.
 - o. **“Revenue Share”** is the combination of the Performance Revenue Share and Volume Revenue Share.
 - p. **“Total Revenue Share Percentage”** means the sum total of the Performance Revenue Share Percentage and the Volume Revenue Share Percentage.
 - q. **“Volume Revenue Share”** means the portion of its Net Monthly Charge Volume that Voyager will pay to each qualifying MiDEAL Member and each qualifying State Agency based on Aggregate Total Monthly Fuel Gallons.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET September 19, 2011
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
 OR
530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B2200006
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR U.S. Bank National Association ND 200 South Sixth Street Minneapolis, MN 55402 <p style="text-align: right;">Email: Thomas.horgan@usbank.com</p>	TELEPHONE 810-229-1660 Tom Horgan CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1218 Brandon Samuel
Contract Compliance Inspector: David Ancell AncellD@michigan.gov 517-322-5051 Fuel Card Services - Statewide	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: October 1, 2011 To: September 30, 2014	
TERMS <p style="text-align: center;">.15% – 10 days</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.

TOTAL ESTIMATED CONTRACT VALUE: \$28,002,544

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

CONTRACT NO. 071B2200006
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR U.S. Bank National Association ND 200 South Sixth Street Minneapolis, MN 55402 <p style="text-align: right;">Email: Thomas.horgan@usbank.com</p>	TELEPHONE 810-229-1660 Tom Horgan CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1218 Brandon Samuel
Contract Compliance Inspector: David Ancell Ancelld@michigan.gov 517-322-5051 Fuel Card Services - Statewide	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: October 1, 2011 To: September 30, 2014	
TERMS <p style="text-align: center;">.15% – 10 days</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <i>THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.</i> The terms and conditions of this Contract are those of ITB #07111300133, this Contract Agreement and the vendor's quote dated 5/10/11 and pricing dated 8/13/11. 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: \$28,002,544	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07111300133. Orders for delivery will be issued directly by the various state agencies and local units of government through the issuance of a Purchase Order Form.

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

FOR THE CONTRACTOR:	FOR THE STATE:
U.S. Bank National Association ND	Signature
Firm	Jeff Brownlee, Chief Procurement Officer
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	DTMB-Purchasing Operations
Date	Division
Date	Date



STATE OF MICHIGAN
Department of Technology Management and Budget
Purchasing Operations

Contract No. [071B2200006](#)
[Fuel Card Services - Statewide](#)

Buyer Name: Brandon Samuel
Telephone Number: 517-241-1218
E-Mail Address: samuelb@michigan.gov



Table of Contents

DEFINITIONS..... 13

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

1.010 Project Identification..... 15

 1.011 Project Request..... 15

 1.012 Background..... 15

1.020 Scope of Work and Deliverables 15

 1.021 In Scope 15

 1.022 Work and Deliverable 15

1.030 Roles and Responsibilities 22

 1.031 Contractor Staff, Roles, and Responsibilities 22

1.040 Project Plan 23

 1.041 Project Plan Management 23

 1.042 Reports..... 23

1.050 Acceptance 23

 1.051 Criteria..... 23

 1.052 Final Acceptance – Deleted/Not Applicable 24

1.060 Proposal Pricing..... 24

 1.061 Proposal Pricing 24

 1.062 Price Term..... 24

 1.063 Tax Excluded from Price 24

 1.064 Holdback – Deleted/Not Applicable..... 24

1.070 Additional Requirements – Deleted/Not Applicable 24

Article 2, Terms and Conditions..... 25

2.000 Contract Structure and Term 25

 2.001 Contract Term 25

 2.002 Options to Renew..... 25

 2.003 Legal Effect 25

 2.004 Attachments & Exhibits 25

 2.005 Ordering 25

 2.006 Order of Precedence 25

 2.007 Headings 26

 2.008 Form, Function & Utility 26

 2.009 Reformation and Severability 26

 2.010 Consents and Approvals 26

 2.011 No Waiver of Default 26

 2.012 Survival..... 26

2.020 Contract Administration 26

 2.021 Issuing Office..... 26

 2.022 Contract Compliance Inspector 26

 2.023 Project Manager 27

 2.024 Change Requests..... 27

 2.025 Notices 27

 2.026 Binding Commitments 28

 2.027 Relationship of the Parties 28

 2.028 Covenant of Good Faith 28

 2.029 Assignments..... 28

2.030 General Provisions 28

 2.031 Media Releases..... 28

 2.032 Contract Distribution..... 29

 2.033 Permits 29

 2.034 Website Incorporation 29

 2.035 Future Bidding Preclusion 29



- 2.036 Freedom of Information29
- 2.037 Disaster Recovery29
- 2.040 Financial Provisions**29
- 2.041 Fixed Prices for Services/Deliverables.....29
- 2.042 Adjustments for Reductions in Scope of Services/Deliverables29
- 2.043 Services/Deliverables Covered29
- 2.044 Invoicing and Payment – In General30
- 2.045 Pro-ration.....30
- 2.046 Antitrust Assignment30
- 2.047 Final Payment30
- 2.048 Electronic Payment Requirement.....30
- 2.050 Taxes**30
- 2.051 Employment Taxes.....31
- 2.052 Sales and Use Taxes31
- 2.060 Contract Management**31
- 2.061 Contractor Personnel Qualifications.....31
- 2.062 Contractor Key Personnel31
- 2.063 Re-assignment of Personnel at the State’s Request.....32
- 2.064 Contractor Personnel Location – Deleted/Not Applicable32
- 2.065 Contractor Identification – Deleted/Not Applicable32
- 2.066 Cooperation with Third Parties32
- 2.067 Contractor Return of State Equipment/Resources32
- 2.068 Contract Management Responsibilities.....32
- 2.070 Subcontracting by Contractor**32
- 2.071 Contractor Full Responsibility.....32
- 2.072 State Consent to Delegation33
- 2.073 Subcontractor Bound to Contract33
- 2.074 Flow Down.....33
- 2.075 Competitive Selection.....33
- 2.080 State Responsibilities**33
- 2.081 Equipment – Deleted/Not Applicable.....33
- 2.082 Facilities – Deleted/Not Applicable.....33
- 2.090 Security**33
- 2.091 Background Checks33
- 2.092 Security Breach Notification34
- 2.093 PCI Data Security Requirements34
- 2.100 Confidentiality**34
- 2.101 Confidentiality.....34
- 2.102 Protection and Destruction of Confidential Information35
- 2.103 Exclusions35
- 2.104 No Implied Rights.....35
- 2.105 Respective Obligations.....35
- 2.110 Records and Inspections**35
- 2.111 Inspection of Work Performed.....35
- 2.112 Examination of Records36
- 2.113 Retention of Records.....36
- 2.114 Audit Resolution36
- 2.115 Errors.....36
- 2.120 Warranties**.....36
- 2.121 Warranties and Representations.....36
- 2.122 Warranty of Merchantability.....37
- 2.123 Warranty of Fitness for a Particular Purpose37
- 2.124 Warranty of Title.....37
- 2.125 Equipment Warranty – Deleted/Not Applicable37



- 2.126 Equipment to be New – Deleted/Not Applicable37
- 2.127 Prohibited Products37
- 2.128 Consequences For Breach.....37
- 2.130 Insurance38**
 - 2.131 Liability Insurance.....38
 - 2.132 Subcontractor Insurance Coverage.....39
 - 2.133 Certificates of Insurance and Other Requirements39
- 2.140 Indemnification.....39**
 - 2.141 General Indemnification39
 - 2.142 Code Indemnification.....40
 - 2.143 Employee Indemnification40
 - 2.144 Patent/Copyright Infringement Indemnification40
 - 2.145 Continuation of Indemnification Obligations40
 - 2.146 Indemnification Procedures40
- 2.150 Termination/Cancellation41**
 - 2.151 Notice and Right to Cure41
 - 2.152 Termination for Cause.....41
 - 2.153 Termination for Convenience42
 - 2.154 Termination for Non-Appropriation42
 - 2.155 Termination for Criminal Conviction43
 - 2.156 Termination for Approvals Rescinded43
 - 2.157 Rights and Obligations upon Termination43
 - 2.158 Reservation of Rights43
- 2.160 Termination by Contractor – Deleted/Not Applicable43**
- 2.170 Transition Responsibilities43**
 - 2.171 Contractor Transition Responsibilities.....43
 - 2.172 Contractor Personnel Transition.....44
 - 2.173 Contractor Information Transition.....44
 - 2.174 Contractor Software Transition.....44
 - 2.175 Transition Payments.....44
 - 2.176 State Transition Responsibilities44
- 2.180 Stop Work44**
 - 2.181 Stop Work Orders.....44
 - 2.182 Cancellation or Expiration of Stop Work Order45
 - 2.183 Allowance of Contractor Costs45
- 2.190 Dispute Resolution45**
 - 2.191 In General.....45
 - 2.192 Informal Dispute Resolution45
 - 2.193 Injunctive Relief46
 - 2.194 Continued Performance46
- 2.200 Federal and State Contract Requirements46**
 - 2.201 Nondiscrimination.....46
 - 2.202 Unfair Labor Practices.....46
 - 2.203 Workplace Safety and Discriminatory Harassment46
 - 2.204 Prevailing Wage – Deleted/Not Applicable.....46
- 2.210 Governing Law46**
 - 2.211 Governing Law46
 - 2.212 Compliance with Laws.....46
 - 2.213 Jurisdiction47
- 2.220 Limitation of Liability47**
 - 2.221 Limitation of Liability47
- 2.230 Disclosure Responsibilities47**
 - 2.231 Disclosure of Litigation47
 - 2.232 Call Center Disclosure.....48



- 2.233 Bankruptcy48
- 2.240 Performance**48
 - 2.241 Time of Performance48
 - 2.242 Service Level Agreements (SLAs) – Deleted/Not Applicable48
 - 2.243 Liquidated Damages – Deleted/Not Applicable48
 - 2.244 Excusable Failure48
- 2.250 Approval of Deliverables – Deleted/Not Applicable**49
- 2.260 Ownership**.....49
 - 2.261 Ownership of Work Product by State49
 - 2.262 Vesting of Rights49
 - 2.263 Rights in Data49
 - 2.264 Ownership of Materials50
- 2.270 State Standards**50
 - 2.271 Existing Technology Standards50
 - 2.272 Acceptable Use Policy50
 - 2.273 Systems Changes50
- 2.280 Extended Purchasing**50
 - 2.281 MIDEAL50
 - 2.282 State Employee Purchases – Deleted/Not Applicable51
- 2.290 Environmental Provision**51
 - 2.291 Environmental Provision51
- 2.300 Other Provisions**52
 - 2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials52

Attachment A, Pricing
 Attachment B, Essential Fleet Card Language



DEFINITIONS

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

Additional Service means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

Audit Period means the seven year period following Contractor's provision of any work under the Contract.

Bidder(s) are those companies that submit a proposal in response to this RFP.

Business Day means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

Blanket Purchase Order is an alternate term for Contract and is used in the Plan Sponsors' computer system.

CCI means Contract Compliance Inspector.

Days means calendar days unless otherwise specified.

Deleted – N/A means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

Deliverable means physical goods and/or services required or identified in a Statement of Work.

DTMB means the Michigan Department of Technology Management and Budget.

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

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

Incident means any interruption in any function performed for the benefit of a Plan Sponsor.

Key Personnel means any personnel identified in **Section 1.031** as Key Personnel.

New Work means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.

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

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



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

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

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

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

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

SLA means Service Level Agreement.

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

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

Subcontractor means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

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

Waste Prevention means source reduction and reuse, but not recycling.

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

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

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



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Contract for fuel cards to be used for agency-owned vehicles, and MI Deal customers.

1.012 Background

The State of Michigan has utilized fuel cards for approximately the last 15 years under separate contracts.

Under the most recent contract, accounts were set up for the Department of Technology, Management and Budget (DTMB), State departments and other units of government (approximately 150 accounts and approximately 5,300 fuel cards).

The fuel card accounts for other state departments and other units of government have been initiated through the Contract Administrator of the contracts in Purchasing Operations. The day to day management of the contracts is managed by personnel from the other departments and other units of government. In other words, each of the 150 entities have their own account, they set their own limits on number of transactions and purchase amounts, they order and cancel their own fuel cards, they pay their own fuel card bills directly and they have access to the reporting systems of the Contractor.

The other units of government include colleges and universities and local units of government, such as cities and counties.

The Michigan Department of Transportation (MDOT) is currently the largest account and there are approximately 100 accounts that are related to the Department of Natural Resources (DNR) parks and facilities.

The types of vehicles fueled with the fuel cards include: light trucks, medium duty trucks and heavy duty trucks, cars, boats, motorcycles, all-terrain vehicles, lawn mowers, gators, and other vehicles that utilize unleaded gasoline (and blends), E85, diesel, biodiesel, propane, CNG and other alternative fuels, for operation.

1.020 Scope of Work and Deliverables

1.021 In Scope

Covered services considered within the scope of this Contract include, but are not limited to, the following:

- A. Provide fuel cards and service of at least 150 accounts, which is comprised of State government agencies, and MIDEAL customers and other units of government.
- B. Provide a complete list of fuel sites in Michigan that accepts the fuel card.
- C. Provide a complete list of non-fuel (i.e. oil lube, tire, towing facilities) that accept the fuel card.
- D. Provide reports that detail cardholder transactions, cardholder listing, supplier information, and accounting information.
- E. Assist the State with development, implementation, modification, or enhancement of internal rules and procedures for issuance, security and operational matters relative to the State's fuel card program.

1.022 Work and Deliverable

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

1. Contractor must provide a standard size plastic commercial fuel card, including a magnetic strip on the reverse side, to be assigned to each specific vehicle assigned to various State agencies and departments. The card format must be distinctive so that it readily identifies the cardholder as an employee of the State of Michigan and it must include the following information:



- a. State of Michigan.
 - b. Phrase: For Official Use Only – Tax-Exempt – NO> A154961.
 - c. Year, make, model, unit number/plate number, etc.
 - d. The Contract's toll-free help line telephone number printed on the reverse side of the card.
2. Contractor must provide fuel cards that meet the unique needs of undercover law enforcement operations. These cards are not identified as a State card and may require a separate account number with a false company name.
 3. Contractor must be able to interface with the current MDOT Fleet Management System, so fuel usage data can be downloaded into the fleet database. Preferably, this would be a real time system requiring no manual download of information.
 4. The Contractor provides the non-fuel locations that accept the card, such as oil and lube, tire, and towing facilities. (i.e. Goodyear, Jiffy Lube, Towing service etc.)
 5. The Contractor must provide transaction controls and/or limits for each cardholder in each of the following areas.
 - a. Maximum transaction size.
 - b. Number of transactions in a period (e.g., day, week, month).
 - c. Transaction dollar volume in a period (e.g., day, week, month).
 - d. Monthly credit limits.
 - e. Prevent case advances.
 - f. Restrict certain product types.
 - g. Restrict certain fuel providers or facilities.
 - h. Appropriate fuel type for the vehicle.
 6. The Contractor must assist the State with development, implementation, modification, or enhancement of internal rules and procedures for issuance, security and operational matters relative to the State's fuel card program.
 7. The State must not be liable for charges incurred after verbal or written notice to the Contractor to cancel a card. As part of its procedures, the State will recover credit cards whenever possible from employees upon retirement, termination or reassignment of a vehicle. Contractor must provide procedures on how to cancel cards, and allow for cancellation by more than one individual with appropriate access.
 8. The State must not be liable for charges incurred by unauthorized users, purchases outside the scope of authorized purchase limits for the specific accounts or purchases processed through a merchant whose Standard Industry Classification Code (SIC Code) is not approved for participation by the State.
 9. The Contractor must provide security protocols, including mechanisms in place to prevent fraudulent use of your system by company employees and external parties.
 10. The Contractor must provide for prevention of further and future use (at commercial and State locations) of any individual card (card lockout) immediately with proper notification by the State.
 11. The Contractor must provide for retail fuel purchases of any alternative fuel used by the State, currently or in the future.
 12. The Contractor must post Level III fuel transactions to an online system within three days or less from the date of the fuel purchase.



- 13. The Contractor must deliver initial cards directly to State locations. The State will provide a list of vehicles that includes a code identifying the location each vehicle is assigned. MDOT has 2,340 active fuel cards with approximately 4,207 user accounts (includes seasonal/temp employees). A file that provides the address and location contact for each location code will be provided. There are approximately 1,000 locations. A listing of the cards enclosed and the vehicles that the cards are assigned to must be included with each group of cards shipped.
- 14. The Contractor must provide a compact list of participating stations or brands to all new recipients during implementation and future additions.

Card Assignment

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Each card will be assigned to a specific vehicle or piece of equipment. A unique vehicle ID and license plate number (if available) identifies each vehicle. Vehicles are assigned to various departments and locations. Location assignment may change over the vehicle life. Unique drivers are not consistently identified with vehicles as multiple drivers share most vehicles.				

Tax Exempt Processing

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Specifically, can your company process exempt the following purchases:				
Unleaded Gas Federal Road Use Tax				
Unleaded Gas State Road Use Tax				
Unleaded Gas State Sales Tax				
E85 Federal Road Use Tax				
E85 State Road Use Tax				
E85 State Sales Tax				
Bio-diesel Federal Road Use Tax				
Bio-diesel State Road Use Tax				
Bio-diesel State Sales Tax				
Diesel Fuel Federal Road Use Tax				
Diesel Fuel State Road Use Tax				
Diesel Fuel State Sales Tax				
Propane Federal Road Use Tax				
Propane State Road Use Tax				
Propane State Sales Tax				
Other Non Fuel Sales Tax				

- 15. Contractor must process tax-exempt transactions where authorized.
- 16. The Contractor must detail the companies that do not participate in the Contractor’s tax-exempt program.



Controls/Restrictions

Contractor must provide controls that will prevent the use of the card for cash advances, or for purchasing at certain vendor types. CASH ADVANCES ARE STRICTLY PROHIBITED.

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Does your company have the capability of issuing fuel cards with the following controls:				
Transaction limits				
Daily limits				
Monthly limits				
Product type restrictions				
Vendor type restrictions				

- 17. Contractor must have the capability of providing controls at the card level and at the account level.
- 18. Contractor must be able to bill separate State departments.

Acceptance

The issued cards must have a very high acceptance among merchants throughout the country and especially in the State of Michigan - both Lower and Upper Peninsulas.

- 19. The Contractor must identify fuel facilities capable of capturing level III transaction data and those that are not.
- 20. The Contractor must provide the number of stations that accept their card in Michigan, including the site name, address and brand affiliation where applicable.
- 21. The Contractor must provide a list of participating brands in Michigan.

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The State requires a minimum of 95% of the transactions include level three data capture.				

Customer Service

- 22. Contractor must have a process for resolving customer service issues.
- 23. Contractor must provide 24 x 7 x 365 fuel card service assistance.
- 24. Contractor must provide training for telephone service representatives.
- 25. The Contractor must provide program level management, training and assistance to the State of Michigan accounts.

Fees

- 26. The Contractor must not charge any transaction fees for processing fuel transactions. The State of Michigan also expects a rebate (percentage of fuel costs) as a result of the fuel transactions being processed through the system.
- 27. Contractor must not charge fees to the State solely for the purpose of establishing an account regardless of the purchasing activity on that account.



Implementation

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The Contractor must be able to transition to the program with cards delivered to State locations by 30 days after Contract is implemented.				
The State requires that the initial cards be delivered directly to State locations. The State will provide a list of vehicles that includes a code identifying the location each vehicle is assigned. A file that provides the address and location contact for each location code will be provided. There are approximately 300 locations. Included with each group of cards shipped by the Contractor must be a listing of the cards enclosed and the vehicles that the cards are assigned to. The State requires a compact list of participating stations or brands be provided to all new recipients during implementation and future additions.				
The Contractor must submit an implementation plan in MS Project format.				

- 28. The Contractor must provide a recommended implementation and transition plan that details key elements, support resources, card issuance, chart of tasks, timelines, and proposed completion dates.
- 29. The Contractor must describe the types of administrators that will be made available during program implementation.

Billing

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
<p>Currently the State of Michigan pays for fuel purchases once every month. Contractor must demonstrate the capacity of providing electronic billing.</p> <p>a. Transaction level detailed billings must reconcile with monthly invoice.</p> <p>b. Provide electronic notification when monthly fuel bill is ready for viewing/processing. This should be an e-mail which identifies the FTP site.</p> <p>c. Provide the ability to track a set of billing codes for each active card in the system. This should include an interface to manage coding changes real time. The fields should include:</p> <ol style="list-style-type: none"> 1) AGY 2) AY 3) INDEX 4) PCA 5) AOBJ 6) GRANT 7) PH 				



30. The Contractor must have a billing dispute resolution process.

Liability

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The State must only be liable for the use of credit cards by authorized users provided that the use is within the purchase limits established for the specific account, and the use is processed through a merchant whose Standard Industry Classification Code (SIC Code) is approved for participation.				

31. The Contractor must have a fraud protection system in place.

Contractor's Database

The Contractor's real-time, browser-based client interface for account-specific access via any internet connection with the capability to sort by fields and the ability for an administrator to create organization hierarchies and move cardholders around within must be able to contain, at a minimum, the following information:

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Vehicle ID				
License Plate				
License Plate State				
VIN				
Department				
Location Code				
Driver Last Name				
Driver First Name				
Per transaction limit				
Daily spending limit				
Daily transaction limit				
Monthly transaction limit				
Monthly spending limit				
Approved SIC or merchant codes				
Expiration date				
Card Status				
Transaction Data				
Transaction Time				
Station Brand				
Station Name				
Station Address				
Station City				
Station State and Zip code				
Quantity purchased				
Cost per unit				
Total sale				
Taxes reduced				
Internal or pay to the pump				
Type of product purchased				
The bidder must retain transaction data according to industry standards.				



Database Technology

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The State has a preference to be able to order new or replacement cards, cancel cards, change authorization limits on cards through an internet application.				

- 32. The Contractor must have accessibility options available to the State through its product(s).
- 33. The Contractor must be able to request a large quantity of new cards through any electronic file.
- 34. The Contractor must be able to update their system with an electronic file.
- 35. The Contractor must maintain capabilities related to Internet access (account administration and/or cardholder online access) along with security.
- 36. The Contractor must maintain data in their system for at least 84 months (combination of online & offline).
- 37. The Contractor’s system must maintain a station listing.
- 38. The Contractor’s system must allow the ability for an administrator to create organizational hierarchies and move cardholders around within it.
- 39. The Contractor must have a back-up process, for example, the dial in number in the event internet connection is down.

CARD PROCESSES AND SPECIFICATIONS

Issuance

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The State will develop internal rules and procedures for issuance, security and operation matters related to the Fuel Card Program. The Contractor must assist the State with development, implementation, modification, or enhancement of these rules upon request by the Contract Administrator.				

Replacement

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Lost or stolen cards must be replaced at no cost to the State.				

- 40. The Contractor must replace lost or stolen cards.
- 41. The Contractor must provide assistance with lost or stolen cards.
- 42. The Contractor must have procedures for establishing driver PINs and addition or deletion of drivers. The Contractor must be able to accommodate existing driver PINs even with a reissuance of new cards.



43. Contractor must provide procedures for the State of Michigan to electronically add/change, or delete cards/pins.

Cancellation

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The State must not be liable for charges incurred after verbal or written notice to the Contractor to cancel a card. As part of its procedures, the State will recover credit cards whenever possible from employees upon retirement, termination or reassignment of a vehicle.				

Card Format Design

44. Fully customized cards will be made available.

Products and Services

45. The Contractor must provide discount or purchase credit programs that result in lower fuel costs to the State (ie. volume incentives, etc.).

Payment

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
The Contractor must accept payment through the use of electronic funds transfer (EFT) upon the request of the State. Payments may be made directly to the Contractor, or to the bank account established by the Contractor to receive payments from the State. The responsibility of payment will rest with the State, and not the individual employee/cardholder.				

Disaster Response

46. The Contractor must have a process for disaster response situations. Disaster response situations may include but not limited to:
- State of Michigan Account Managers with a need to change transactions limits, activate and/or deactivate fuel card(s) and other actions required by the emergency.
 - After regular work hours including weekends and holidays
 - State of Michigan Account Managers are not able to access the internet.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

The Contractor has identified the following individuals as key personnel:
 Tom Horgan, Sales Representative (Government Account Executive and Contract Administrator)
 Mark Hess, Relationship Manager (Account Manager)
 Belinda Puzon, Main Operational Contact
 TBD, Problem Resolution Contact



1.040 Project Plan

1.041 Project Plan Management

1. The Contractor must carry out the program implementation and ongoing services under the direction and control of the Department of Technology, Management and Budget, Purchasing Operations.
2. There will be continuous liaison with the Contractor team and personnel from other departments and local units of government. The Contract Administrator will meet with the Contractor’s Program Manager for the purpose of reviewing performance and providing necessary guidance to the Contractor in solving problems, which arise.
3. The Contractor must submit brief written monthly summaries of performance which outline the work accomplished during the reporting period (in this context reporting period is the prior month); work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the Contract Administrator; and notification of any significant deviation from previously agreed-upon work plans. These reports must be provided monthly until the program is running successfully. At that time, contact will be reduced to semi-annually at the Contract Administrator’s direction. The Contractor and the Contract Administrator on behalf of the State of Michigan must continually evaluate the performance, efficiency and effectiveness of the program.
4. Within 10 working days of the execution of the Contract, the Contractor must submit to the Contract Administrator for final approval a work plan. This final implementation plan must include the following;
 - a. The Contractor’s project organization structure.
 - b. The Contractor’s staffing table with names and title of personnel assigned to the project.
 - c. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each (MS Project is the preferred format).
 - d. The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan (MS Project is the preferred format).

1.042 Reports

The credit card system must be capable of generating standard reports that detail cardholder transactions, cardholder listing, supplier information, accounting information at no additional cost and in a variety of formats. Contractor must have the capability to provide/provide access to historical fuel transaction data for at least five years prior. When requested, Contractor must be able to provide customized reports within three days. MDOT must also have access to create real time ad-hoc reports from the Contractor’s site.

	Compliant	Not Compliant	Compliant w/Modifications	Explain Modifications
Reports must be available in a variety of formats (i.e., hard copy, magnetic formats such as tape or disk or by electronic data interchange). The Contractor must have the ability to provide to the State upon request validation or individual transaction data.				

The Contractor must be able to provide standard and customized reports.

The Contractor must be able to capture data from a fuel card transaction.

The Contractor must be able to allow for ad hoc queries.

The State requires accurate reporting of alternative fuel use such as E-85 and biodiesel.

1.050 Acceptance

1.051 Criteria

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



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

1. An 800# to call for customer service which is available 24 hours a day.
2. Fuel card replacement of lost or stolen cards will be delivered to user within 48 hours of request.
3. Transactions will be reported online, and special reports will be available on request.
4. Billing for fuel will be minus all State and Federal taxes.
5. Level III data will be posted and tracked for all transactions.

1.052 Final Acceptance – Deleted/Not Applicable

1.060 Proposal Pricing

1.061 Proposal Pricing

Bidder should submit pricing in accordance with Attachment A, "Pricing"

Bidders are encouraged to offer quick payment terms (i.e. _____% discount off invoice if paid within _____ days). This information can be noted on the Bidders price proposal (see Attachment A). This may be a factor considered in our award decision.

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dtmb for current rates.

1.062 Price Term

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

1.063 Tax Excluded from Price

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

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

1.064 Holdback – Deleted/Not Applicable

1.070 Additional Requirements – Deleted/Not Applicable



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

The Contract is for a period of 3 years beginning October 1, 2011 through September 30, 2014. All outstanding Purchase Orders must also expire upon the termination (cancellation 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, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

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

2.003 Legal Effect

Contractor must show acceptance of the Contract by signing two (2) copies of the Contract and returning them to the Contract Administrator. The Contractor must not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

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



2.007 Headings

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

2.008 Form, Function & Utility

If the Contract is for use of more than one (1) State agency and if the Deliverable/Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.009 Reformation and Severability

Each provision of the Contract is severable from all other provisions of the Contract and, if one (1) 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

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

Brandon Samuel, Buyer Specialist
Purchasing Operations
Department of Technology Management and Budget
Mason Building, 2nd Floor
PO Box 30026
Lansing, MI 48909
samuelb@michigan.gov
517-241-1218

2.022 Contract Compliance Inspector

After DTMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with Department of Technology, Management & Budget, Vehicle & Travel Services, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of the



Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB Purchasing Operations.** The CCI for the Contract is:

David Ancell, Manager, VTS
Department of Technology, Management & Budget
6951 Crowner Dr., Lansing, MI 48913
AncellD@michigan.gov
517-322-5051
517-322-5100

2.023 Project Manager

The following individual will oversee the project:

David Ancell, Manager, VTS
Department of Technology, Management & Budget
6951 Crowner Dr., Lansing, MI 48913
AncellD@michigan.gov
517-322-5051
517-322-5100

2.024 Change Requests

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

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

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under the Contract, describing the Change and its effects on the Services and any affected components of the Contract (a "Contract Change Notice").
- (b) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the DTMB-Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of the 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 State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, 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.

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless stated otherwise in the Contract, the parties must not unreasonably delay, condition, or withhold the giving of any consent, decision, or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

2.029 Assignments

(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the requirements of the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one (1) entity continues.

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

2.030 General Provisions

2.031 Media Releases

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

**2.032 Contract Distribution**

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

2.033 Permits

Contractor must obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.034 Website Incorporation

The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

2.035 Future Bidding Preclusion

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

2.036 Freedom of Information

All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, 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 the Contract must 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 the Contract must specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.042 Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under the Contract is subsequently reduced by the State, the parties must negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

2.043 Services/Deliverables Covered

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



2.044 Invoicing and Payment – In General

(a) Each Statement of Work issued under the Contract must 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 must 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 must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) must mutually agree upon. The schedule must show payment amount and must reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

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 CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.045 Pro-ration

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services must 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 the Contract.

2.047 Final Payment

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one (1) party against the other arising from unsettled claims or failure by a party to comply with the 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 the Contract must constitute a waiver of all claims by Contractor against the State for payment under the 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. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

2.050 Taxes



2.051 Employment Taxes

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

2.052 Sales and Use Taxes

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining “two (2) 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 the 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 the 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 the 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 CCI 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 reserves 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 must notify the State of the proposed assignment, must introduce the individual to the appropriate State representatives, and must 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 must 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, 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 must be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.



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

2.063 Re-assignment of Personnel at the State's Request

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location – Deleted/Not Applicable

2.065 Contractor Identification – Deleted/Not Applicable

2.066 Cooperation with Third Parties

Contractor must 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 must 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 the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under the Contract with the requests for access.

2.067 Contractor Return of State Equipment/Resources

The Contractor must return to the State any State-furnished equipment, facilities, and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.068 Contract Management Responsibilities

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

2.070 Subcontracting by Contractor

2.071 Contractor Full Responsibility

Contractor has full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under the Contract, including payment of any and all charges for Services and Deliverables.



2.072 State Consent to Delegation

Contractor must not delegate any duties under the Contract to a Subcontractor unless the DTMB-Purchasing Operations has given written consent to such delegation. The State reserves 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 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 Subcontractor(s) for the removed Subcontractor must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

2.073 Subcontractor Bound to Contract

In any subcontracts entered into by Contractor for the performance of the Services, Contractor must require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by the 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 is the responsibility of Contractor, and Contractor must remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor must make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under the Contract will not relieve Contractor of any obligations or performance required under the Contract.

2.074 Flow Down

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

2.075 Competitive Selection

The Contractor must 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 – Deleted/Not Applicable

2.082 Facilities – Deleted/Not Applicable

2.090 Security

2.091 Background Checks

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



All Contractor personnel must 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 must agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. The Contractor must present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff must comply with all Physical Security procedures in place within the facilities where they are working.

2.092 Security Breach Notification

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements

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 must contact the CCI immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Payment Card Industry representative, or a Payment Card Industry approved third party, must be provided with full cooperation and access to conduct a thorough security review. The review must 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 must continue to treat cardholder data as confidential upon contract termination.

The Contractor must provide the CCI documentation showing PCI Data Security certification has been achieved. The Contractor must advise the CCI 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 must provide a time line for corrective action.

2.100 Confidentiality

2.101 Confidentiality

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



2.102 Protection and Destruction of Confidential Information

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

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

2.103 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights

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

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

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



2.112 Examination of Records

For seven (7) years after the Contractor provides any work under the Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

2.113 Retention of Records

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

2.114 Audit Resolution

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

2.115 Errors

(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) invoices. If a balance remains after four (4) invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the Contract, whichever is earlier.

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

2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the 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 the 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 the Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.



- (d) If, under the 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 the 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 the 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 the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two (2) days of learning about it.
- (h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Purchasing Operations.

2.122 Warranty of Merchantability

Goods provided by Contractor under this agreement must be merchantable. All goods provided under the Contract must be of good quality within the description given by the State, must be fit for their ordinary purpose, must be adequately contained and packaged within the description given by the State, must conform to the agreed upon specifications, and must 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 must, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by Contractor must 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 the Contract, must be delivered free of any rightful claim of any third person by of infringement or the like.

2.125 Equipment Warranty – Deleted/Not Applicable

2.126 Equipment to be New – Deleted/Not Applicable

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, is 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 must remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

2.128 Consequences For Breach

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



2.130 Insurance

2.131 Liability Insurance

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims which may arise out of or result from the Contractor's performance of Services under the terms of the 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 the Contract.

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

The insurance must be written for not less than any minimum coverage specified in the 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 the Contract must be issued by companies that have been approved to do business in the State. See www.michigan.gov/deleg.

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 the 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 the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.



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

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

- ☑ 4. Employers liability insurance with the following minimum limits:
 - \$100,000 each accident
 - \$100,000 each employee by disease
 - \$500,000 aggregate disease

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 the 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 must fully comply with the insurance coverage required in this Section. Failure of Subcontractor 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 DTMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies **MUST NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED** without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, DTMB. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three (3) years following the expiration or termination for any reason of the 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 the 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 the Contract, or if any insurer cancels or significantly reduces any required insurance as specified in the 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 the



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 must 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 the 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 the Contract.



(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under the 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 must 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 the Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under the 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 the Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the 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 the 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 the Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under the Contract.

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

(d) If the State terminates the 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 the Contract for a termination for convenience.

2.153 Termination for Convenience

The State may terminate the 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 the 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 the Contract in part, the charges payable under the Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for Non-Appropriation

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

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under the Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates the Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

**2.155 Termination for Criminal Conviction**

The State may terminate the 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 the 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 must 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 the 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 the 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 the 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 the 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 the 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 the Contract, and may further pursue completion of the Services/Deliverables under the Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 Reservation of Rights

Any termination of the 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 – Deleted/Not Applicable**2.170 Transition Responsibilities****2.171 Contractor Transition Responsibilities**

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the 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 90 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

2.172 Contractor Personnel Transition

The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by the 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 must notify all of Contractor's subcontractors of procedures to be followed during transition.

2.173 Contractor Information Transition

The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under the Contract. The Contractor must provide the State with asset management data generated from the inception of the Contract through the date on which the Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor must deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

2.174 Contractor Software Transition

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under the Contract. This must include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses must, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of the Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates agreed upon by the State. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities

In the event that the Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (a) Reconciling all accounts between the State and the Contractor;
- (b) Completing any pending post-project reviews.

2.180 Stop Work

2.181 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. 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 2.150**.



2.182 Cancellation or Expiration of Stop Work Order

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

2.183 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

2.190 Dispute Resolution

2.191 In General

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

2.192 Informal Dispute Resolution

- (a) All disputes between the parties must be resolved under the Contract Management procedures in the Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:
- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
 - (ii) During the course of negotiations, all reasonable requests made by one (1) party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.
 - (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
 - (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.
- (b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.



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

2.193 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.192** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.194 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

In the performance of the Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of the Contract or any purchase order resulting from the Contract must contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and any breach of this provision may be regarded as a material breach of the Contract.

2.202 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., the State must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under Section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under Section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor must comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor must comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.

2.204 Prevailing Wage – Deleted/Not Applicable

2.210 Governing Law

2.211 Governing Law

The Contract must in all respects be governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

2.212 Compliance with Laws

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



2.213 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

2.220 Limitation of Liability

2.221 Limitation of Liability

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of the 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 the Contract.

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

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

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

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

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



- (2) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.232 Call Center Disclosure

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

2.233 Bankruptcy

The State may, without prejudice to any other right or remedy, terminate the 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 the Contract.

Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

2.240 Performance

2.241 Time of Performance

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 Service Level Agreements (SLAs) – Deleted/Not Applicable

2.243 Liquidated Damages – Deleted/Not Applicable

2.244 Excusable Failure

Neither party will be liable for any default, damage, or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military, or otherwise), power failure, 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 – Deleted/Not Applicable

2.260 Ownership

2.261 Ownership of Work Product by State

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

2.262 Vesting of Rights

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

2.263 Rights in Data

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor must 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 must not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

(b) The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State must 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 must 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

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

In those cases, Contractors supply merchandise at the established State of Michigan contract prices and terms. The Contractor must submit invoices to and receive payment from MiDEAL members on a direct and individual basis according to contract terms.



IT IS MANDATORY THAT THE CONTRACT BE MADE AVAILABLE TO ALL STATE OF MICHIGAN AGENCIES AND AUTHORIZED MIDEAL PURCHASING PROGRAM MEMBERS.

Please visit MiDEAL at www.michigan.gov/mideal.

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

MiDEAL Members are subject to the following terms:

1. The MiDEAL Member agrees to accept and perform all duties, responsibilities and obligations required of the State as set forth in the Contract. Cards shall be issued to designated employees of the MiDEAL Member upon execution of their signed purchase order by the MiDEAL Member and the Contractor.
2. In order to determine credit qualifications for the MiDEAL Member, the Member shall provide the Contractor with the last three (3) years of audited financial statements with their signed purchase order. The Member shall provide to the Contractor annual financial statements thereafter. The Contractor will review the financial statements and notify the Member of the approval or decline of its credit qualification. If such financial statements can be independently obtained by the Contractor, Member will not be required to provide such financial statements.
3. The MiDEAL Member shall make payment to the Contractor for all Debt incurred by Member, its Cardholders and Accountholders as provided in the Contract. "Debt" means all amounts charged to a card and/or account including without limitation all amounts related to purchases, fees and other Charges that are owed to the Contractor, its Cardholders and Accountholders.
4. The MiDEAL Member represents and warrants that this transaction is within the scope of the normal course of business and does not require further authorization for the Member to be bound by their signed purchase order. The Contractor is under no obligation to accept a purchase order from a MiDEAL member that does not pass their credit qualification process.

2.282 State Employee Purchases – Deleted/Not Applicable

2.290 Environmental Provision

2.291 Environmental Provision

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 such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

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



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

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

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

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

Refrigeration and Air Conditioning:

The Contractor must 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 the Contract.

Environmental Performance:

Waste Reduction Program: Contractor must establish a program to promote cost-effective waste reduction in all operations and facilities covered by the Contract. The Contractor's programs must 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 Other Provisions

2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials

Equipment, materials, or supplies, that will be furnished to the State under the Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.



Attachment A, Price Proposal

Additionally the following items are required:

ALL LISTED ITEMS BELOW MAY NOT BE APPLICABLE, PLEASE INDICATE IF NO CHARGE.

Item	Unit	Price
Specific Fees:	List any costs associated with the specific fees listed below.	
<i>Late Fee for Delinquent Balances (excluding unpaid late fees) Must comply with P.A. 279</i>	No Fee	NO FEE
<i>Reproduced Vehicle Analysis Report</i>	No Fee	NO FEE
<i>Overnight Mail Fees</i>	Lost/stolen cards	FEE WAIVED
<i>Returned Item Fee (Not Sufficient Funds NSF/Automated Clearinghouse ACH)</i>	No Fee	NO FEE
<i>Other Fees:</i>	Custom Card Design	Fee Waived (Standard Fee: \$3,500)
	Logo Card	Fee Waived (Standard Fee: \$200)
Special Fees:	If applicable, please specify any additional fees that are not listed above.	n/a
Signing Bonus:	Detail below the signing bonus program offered.	Bonus \$
<i>Signing bonuses shall not be contingent upon gallons purchased or cost of fuel (spend under the contract)</i>	Contract Term	\$150,000 Total Contract Signing Bonus \$100,000 for the three base years of the contract. \$25,000 upon execution of Option Year 1 \$25,000 upon execution of Option Year 2 Signing Bonus paid once the contract is approved and signed. Signing Bonus payments for option years are paid upon the exercising of the option years. If the State exercises option years immediately, then total signing bonus would be \$150,000.
Volume rebates and early pay incentives shall apply to all State of Michigan and MiDeal accounts regardless of spend amounts. Volume rebates shall be based on gallons purchased.		
Volume Rebates on Purchase:	Detail below the rebate program offered the State.	% rebate based on gallons purchased by month. For bid evaluation purposes, 247,000 gallons per month will be used.
<i>Rebate tier(s): based on gallons purchased by month. Although both purchase and cost are subject to dramatic change, for the sake of comparison the rebate offered shall be based on gallons not dollars spent.</i>	Fill in rebate table on next page	Fill in rebate table on next page
<i>Conditions of rebate: List in detail all the conditions that affect the rebate.</i>		
Early Pay Incentives:	Detail below the early pay incentives offered the State. Provide full range of early pay incentives (paid in full within x days and incentive)	For bid evaluation purposes, provide early pay incentive based on payment in full within 10 calendar days from the billing date appearing on the invoice.
	Please see the table included below.	0.1500%



EARLY PAY INCENTIVE:					
Client Held Days	Rebate	Client Held Days	Rebate	Client Held Days	Rebate
0	0.2250%	11	0.1425%	22	0.0600%
1	0.2175%	12	0.1350%	23	0.0525%
2	0.2100%	13	0.1275%	24	0.0450%
3	0.2025%	14	0.1200%	25	0.0375%
4	0.1950%	15	0.1125%	26	0.0300%
5	0.1875%	16	0.1050%	27	0.0225%
6	0.1800%	17	0.0975%	28	0.0150%
7	0.1725%	18	0.0900%	29	0.0075%
8	0.1650%	19	0.0825%	30	0.0000%
9	0.1575%	20	0.0750%		
10	0.1500%	21	0.0675%		

Client

Held Days are based on payment in full within calendar days from the billing date appearing on the invoice.

Rebate Table

Monthly Gallons (X to X)	Rebate Percentage of Gross Spend
100,000 - 200,000	1.300%
200,001 - 300,000	1.700%
300,001 +	1.800%

Rebates will be paid on all spend, including fuel and maintenance.



Attachment B, Essential Fleet Card Language

This Attachment B is part of Contract No. 071B2200006 for Fleet Card services (the “Contract”) between the State of Michigan (“the State”) and U.S. Bank National Association ND (“U.S. Bank”), by and on behalf of its wholly owned subsidiary, Voyager Fleet Systems Inc (“Voyager”).

After the State has been credit qualified by Voyager, Voyager will establish fleet card accounts for the State and such of its agencies while the fleet card contract is in effect.

MiDEAL Members may also participate under this fleet card contract. These entities must be credit qualified on their own and must submit a signed purchase order, referencing the State of Michigan contract.

Subject to credit approval by U.S. Bank, an Account Credit Limit (an “ACL”) for each account and an Aggregate Product Credit Limit (the “PCL”) for all accounts for the State and each MiDEAL Member shall be established by U.S. Bank pursuant to this Contract. U.S. Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to State or the appropriate MiDEAL Member of any decrease in the PCL which results in a revised PCL that is lower than the aggregate current amount outstanding on all accounts for the State or the MiDEAL Member. Upon such event, the State or the appropriate MiDEAL Member, as the case may be, shall have forty five (45) days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL. U.S. Bank, at its sole discretion, shall have the right to revise any ACL. U.S. Bank may temporarily revise any ACL and/or limit spending activity on any account for which fraudulent activity is suspected.

All fleet card accounts shall be set up and maintained pursuant to the Voyager fleet card program policies and procedures. Subject to the terms of the Contract, the State or the MiDEAL Member shall be liable for all purchases, fees, finance charges and other charges incurred or arising by virtue of the use of a fleet card. Voyager will send to the State and each MiDEAL Member a monthly billing statement, which will itemize all charges for the billing period. The amount shown on the statement as “Total Payment Due” shall be due and payable in U.S. Dollars upon the State’s or the MiDEAL Member’s receipt of the Statement. The statement, as well as the payment, can also be reviewed and paid online. Disputes regarding charges or billings must be communicated to Voyager in writing and must be received by Voyager within sixty (60) days after the date on the statement on which the disputed or incorrect charge first appeared.

Voyager requires that the State pay within forty five (45) days upon receipt of the invoice. Voyager will handle all collection activity. While each account is unique, in most instances, phone calls will be made to accounts that are 30 days past due. These calls may be followed up with letters and other collection activities, as dictated by individual circumstances.

Any account with an outstanding balance greater than 90 days may be subject to account suspension. Voyager will not assess finance charges to the State.