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 1
to
Contract Number **071B6600006**

CONTRACTOR	
	CW Professional Services LLC
	150 W. Jefferson Ave.
	Detroit, MI 48226
	Brian Smith
	517-267-5355
	brian.smith@lockbridge.com
	*******3320

STATE		
Program Manager	Schrantz Philip	DTMB
	517-420-5190	
	schrantzp@michigan.gov	
Contract Administrator	Jarrod Barron	DTMB
	(517) 284-7045	
	barronj1@michigan.gov	

CONTRACT SUMMARY

REMEDIATION INFORMATION DATA EXCHANGE (RIDE)

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 27, 2015	October 27, 2020	5 - 1 Year	October 27, 2020

PAYMENT TERMS	DELIVERY TIMEFRAME

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

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		October 27, 2020

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$5,487,919.00	$0.00	$5,487,919.00

DESCRIPTION

Effective Jan 5, 2017 the contract is terminated for convience and general release

Termination for Convenience and General Release
Contract No. 071B6600006

1. **Background:** This Termination for Convenience and General Release (this "**Agreement**") relates to Contract No. 071B6600006 (the "**Contract**"), by and between the Michigan Department of Technology, Management and Budget on behalf of the Michigan Department of Environmental Quality (collectively, the "**State**") and CW Professional Services d/b/a Lochbridge ("**Lochbridge**"). More specifically, this Agreement relates to work being performed by Lochbridge on the State's Remediation Information Data Exchange ("**RIDE**") project. The Contract is currently subject to a Stop Work Order that was previously issued by the State, and subsequently extended by both parties. The parties have agreed that is in their best interests to terminate the Contract for convenience.

2. **Termination:** The parties agree that, as of the Effective Date (as defined below), the Contract is terminated for convenience and that neither party has any further obligations to the other under the Contract.

3. **Payment to Lochbridge.** Within five (5) business days of the Effective Date, the State agrees to pay Lochbridge the amount of Two-Hundred Thousand dollars (US $200,000), which will constitute full and final satisfaction of all outstanding invoices issued by Lochbridge under the Contract (the "**Release Payment**").

4. **Return of Source Code.** Within five (5) business days from the Effective Date: (i) the State will return all Source Code to Lochbridge related to the RIDE project; and (ii) the State will also destroy any copies of such Source Code on its own systems and certify the same to Lochbridge via email from an authorized officer or personnel to bind the State. By executing below, the State hereby relinquishes any claim of right or title to such Source Code. For purposes of this section, "**Source Code**" means all deliverables and related designs that Lochbridge developed and/or provided to the State after the "Sprint/Release 0" phase of the RIDE project, including, but not limited to, software configuration plans, requirements traceability documents, requirements specifications, functional design documents, system design documents, sprint planning documents, and the human readable source code of the RIDE application developed by Lochbridge for the RIDE project, in the programming language in which the RIDE application was written. For the avoidance of doubt, however, Source Code does not include any of the "User Stories" that were developed during any phase of the RIDE project, which "User Stories" shall be retained by the State.

5. **Release of Lochbridge.** The State hereby releases Lochbridge from any and all rights, claims, actions, and demands of every kind and nature, legal or equitable, known or unknown, disclosed or undisclosed, suspected or unsuspected, including, without limitation, any claims for damages, actual or consequential, past, present, or future, which were asserted or could have been asserted by the State, and which arise out of or in any way relate to the products or services provided pursuant to the Contract.

6. **Release of the State of Michigan**. Upon payment to Lochbridge of the Release Payment and return of the Source Code, Lochbridge hereby releases the State from any and all rights, claims, actions, and demands of every kind and nature, legal or equitable, known or unknown, disclosed or undisclosed, suspected or unsuspected, including, without limitation, any claims for damages, actual or consequential, past, present, or future, which were asserted or could have been asserted by Lochbridge, and which arise out of or in any way relate to the products or services provided pursuant to the Contract.

7. **Entire Agreement**. This Agreement constitutes the entire agreement between the parties with respect to the Contract and the related RIDE project, and supersedes any and all prior or contemporaneous agreements or representations, written or oral, between the parties.

8. **Effective Date**. This Agreement shall be effective as of the last date executed below (the "**Effective Date**").

9. **Counterparts**. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together are deemed to be one and the same agreement and will become effective and binding upon the parties as of the Effective Date. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (to which a signed copy is attached) is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

For the State

William Pemble
Director, IT Procurement
DTMB

For Lochbridge

Puneet Pamnani
CFO & COO
Lochbridge

Dec 16, 2016

Form No. DTMB-3522 (Rev. 04/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

NOTICE OF CONTRACT NO. 071B6600006

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
CW Professional Services DBA Lochbridge	Brian Smith	Brian.smith@lochbridge.com
150 W. Jefferson Ave, Suite 1200	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
Detroit, MI 48226	(517) 267-5355	3320

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	DTMB	Philip Schrantz	(517) 420-5190	schrantzp@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Mike Breen	(517) 284-7002	breenm@michigan.gov

CONTRACT SUMMARY

DESCRIPTION:

Remediation Information Data Exchange (RIDE)

INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
5 years	October 27, 2015	October 27, 2020	5, one year

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

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

MINIMUM DELIVERY REQUIREMENTS:

N/A

MISCELLANEOUS INFORMATION:

N/A

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:	$5,487,919.00

Notice of Contract #: 071B6600006

For the Contractor:

Robert J, CFO

Contract Administrator

10/28/2015

Date

For the State:

11/3/15

Date

State of Michigan

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Appendices and Exhibits

Appendix A	Cost Tables
Appendix B	Requirements

Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 PROJECT REQUEST

The State of Michigan (**"State"**), through the Department of Technology, Management and Budget (**"DTMB"**) in partnership with the Department of Environmental Quality (**"DEQ"**) issued this contract to acquire a new custom built software application for consolidating and replacing, in whole or in part the Environmental Response Network Information Exchange (**"ERNIE"**) and Storage Tank Information Database (**"SID"**) applications utilized by the DEQ Remediation and Redevelopment Division (**"RD"**). The system will be titled Remediation Information Data Exchange (**"RIDE"**).

This solution will assist the RD in fulfilling its duties to ensure Michigan's contaminated properties are reliably managed, revitalized, and the environment is protected. RIDE will track site classification and environmental impacts to evaluate risks, restrictions to prevent exposures to hazardous substances, and report submittals/RD actions for state and privately funded cleanups to maintain a record for compliance assistance and enforcement. In addition, the DEQ is required to report specific information to the legislature pursuant to the Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 201) and the Part 213, Leaking Underground Storage Tank, of the Natural Resources and Environmental Protection Act, 1194 PAf451, as amended (Part 213).

There will also be interfaces and integrations to the following systems.

Interfaces

- DEQ Environmental Mapper
  (http://www.mcgi.state.mi.us/environmentalmapper/)
- Statewide Integrated Governmental Management Applications (SIGMA)
  (http://www.cgi.com/en/CGI-awarded-contract-State-Michigan-ERP-modernization-project)
- MICARS
  (http://www.kunzleigh.com/projects/micars/)
- HP Records Manager Document Management
  (http://www8.hp.com/us/en/software-solutions/software.html?compURI=1173707#.Uua5IxAo7cs)

Integrations

- Site Registry Data-Mart
  (http://www.deq.state.mi.us/SiteRegistry/Dashboard/)
- State Single Sign-on Solution (MICAM) (see Exhibit 5 - MICAM Attributes)
- Current ERNIE database

The project will include the following:

- Planning
- Design - Functional and System
- Development Releases
- Implementation
- Training and documentation
- Warranty

- Knowledge transfer and transition
- Future enhancements

1.002 BACKGROUND

Mission

As a part of the Governor's Quality of Life initiative, DEQ protects Michigan's environment while supporting improved public health. As public servants, DEQ works for the people of Michigan to improve quality of life and provide a sustainable future. As regulators, DEQ strives to be full partners in helping the State grow its economy while safeguarding its people and environment. As professionals, DEQ is committed to demonstrating leadership in environmental stewardship and excellent customer service at every organizational level.

Problem

DEQ RD depends upon an application launched in the spring of 2001 titled ERNIE to support the functions of the Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended effective December 14, 2010 (Part 201). The current application allows the RD division to collect data from sites which is used to plan, execute, and monitor activities related to the cleanup of contaminated sites. In addition, the captured data is analyzed and reported to stakeholders. The RD division currently manages 13,799 sites involving incidents of environmental contamination and is monitoring 9,500 additional sites to ensure the remediation actions culminate with the desired result. The current legacy solution is at end of life and must be replaced.

Goal

The goal is to retain a well-qualified contractor to design, build, test, and implement a new application which supports State standards, satisfies the requirements of **Appendix B - General Business and Technical Requirements**, and provides a good user experience to internal and external stake holders.

Business objectives

- The new application operates in a manner which results in a positive user experience.
- Use of the new application permits State resources to accurately and efficiently execute tasks as assigned
- The new application is available to DEQ offices located in Lansing and various other Michigan locations
- The new application is designed and coded in support of State standards
- The project executes in a timely manner which results in tasks completing as planned with high quality deliverables
- Legacy data is migrated and available in the new application as required
- DEQ resources are trained to a level which inspires confidence in the use of the new application and minimizes confusion
- Documentation is written in a manner where the content communicates the intended message to the reader in a manner which does not assume prior knowledge or experience with the application

1.100 Scope of Work and Deliverables

1.101 IN SCOPE

The Contractor[1] will provide services to custom build a new application titled RIDE using the State roadmap of tools as referenced under 1.103. The resulting RIDE application and associated integrations will be collectively referred to as the ("**RIDE Solution**"). The RIDE Solution will enhance DEQ productivity and result in a high level of user satisfaction.

This project consists of the following scope:

[1] Collectively refers to the prime, subcontractors, and otherwise all contractor resources assigned to this contract

Business Requirements

- Analysis, Validation, and Verification of **Appendix B - General Business and Technical Requirements**
- Product Roadmap

Design

- Functional Design
  - Application
  - Database
  - Interface(s)
  - Integration(s)
- System Design
  - Application
  - Database
  - Interface(s)
  - Integration(s)

Development

- RIDE application
- Leverage current ERNIE database
- RIDE interfaces
- RIDE Integrations

Implementation

- Configuration
- Installation
- Testing
  - Unit
  - Usability
  - User acceptance
  - Performance
  - Integration
- Source code and development documentation/notes

Training / Documentation

- Agile User Stories
- Agile Backlog Reports
- Agile Burn Down
- Agile Velocity
- End User Guides
- Administration Guides
- Technical Installation & Support Guides

Warranty

- 120 day ("**Warranty Period**")

Knowledge Transfer / Transition

- Transfer / transition workgroup sessions with appropriate supporting materials
- Security Information including accounts and pass codes

Future Enhancements

- Bank of hours for agreed enhancements

Vendor Hosting

- The requirement for this contract is the solution is hosted by the State but the State may request Vendor Hosting at some future date.

A more detailed description of the software, services (work) and deliverables sought for this project is provided in Article 1, Section 1.104, Work and Deliverables.

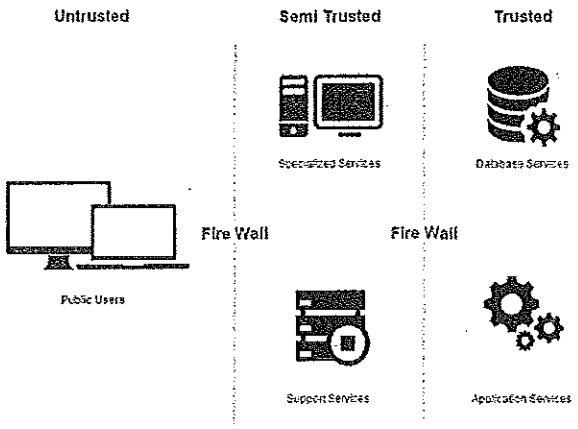
1.102 OUT OF SCOPE

The following is considered out of scope.

- Any proposal that expects the State to leverage components of a commercial off the shelf solution that performs activities already performed by an existing State solution (e.g. accounting, GIS, document management).
- Decommissioning of legacy or replaced systems
- Acquisition and support of hardware
- Acquisition and support of Software already owned by the State or available through State contract
- Upgrades required by other systems to enable them to work with the RIDE Solution
- Advertising, marketing, and press releases
- Assignment and management of State resources

1.103 ENVIRONMENT

The enterprise can be generally viewed as follows.



The links below provide information on the State's Enterprise information technology (IT) policies, standards and procedures which includes security policy and procedures, eMichigan web development, and the State Unified Information Technology Environment (SUITE).

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided as a result of this contract must comply with all applicable State IT policies and standards. Contractor is required to review all applicable links provided below and state compliance in their response.

Enterprise IT Policies, Standards and Procedures:

http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html

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

It is recognized that technology changes rapidly. The Contractor may request, in writing, a change in the standard environment, providing justification for the requested change and all costs associated with any change. The State's Project Manager must approve any changes, in writing, and MDTMB, before work may proceed based on the changed environment.

Enterprise IT Security Policy and Procedures:

http://www.michigan.gov/documents/dmb/1325_193160_7.pdf
http://www.michigan.gov/documents/dmb/1335_193161_7.pdf
http://www.michigan.gov/documents/dmb/1340_193162_7.pdf

The State's security environment includes:

- MICAM Single Login
- MDTMB provided SQL security database
- Secured Socket Layers
- SecureID (State Security Standard for external network access and high risk Web systems)

MDTMB requires that its single - login security environment (MICAM) be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the State's Project Manager and MDTMB Office of Enterprise Security.

Any additional Agency specific security requirements above and beyond the enterprise requirements and standard terms and conditions stated in Article 2 must be provided as part of the Agency Specific Technical Environment.

Look and Feel Standard

All software items provided by the Contractor must be ADA complaint and adhere to the Look and Feel Standards www.michigan.gov/somlookandfeelstandards.

The State Unified Information Technology Environment (SUITE):
Includes standards for project management, systems engineering, and associated forms and templates – must be followed: http://www.michigan.gov/suite

Agency Specific Technical Environment[2]

The DEQ technical environment is a component of the State Enterprise Environment and includes but is not limited to the following technologies.

Hardware

- Web Servers
  - PROD Web server & QA/DR Web server are the following configuration
  - Dell PowerEdge 1950
  - Windows 2003 SVR STD SP2
  - Processor: 2 x 3.20GHz Quad Core

[2] Some of the products in the technical environment may be scheduled for upgrades before the completion of the project.

  - RAM: 4096
  - HD: 73gb
- Database Servers
  - DELL POWEREDGE 2950
  - Windows 2003 SVR EE SP2
  - Processor: 2 x 4 @ 2.33 GHz
  - RAM: 4096
  - HD: 2 x 146 - RAID 1
- SAN and NAS disk storage

Operating Systems

- Windows Server 2008 OS
- Microsoft Windows 7/8 Desktop OS

Desktop Workstations

- HP Desktops & Laptops
- Dell Desktops & Laptops

Database

- Microsoft SQL Server 2008 Release 2
  The current database (and log) takes up 2gb.

Network

- Ethernet
- Microsoft Active Directory
- Cisco Routers & Switches
- Network devices

Locations

- State of Michigan

Development Tools

- Microsoft ASP .NET 2008
- Microsoft .NET Framework 3.5 and 4.0
- Microsoft Internet Information Server (IIS) 7.x / 2008 Release 2

Browser

- Microsoft Internet Explorer 10

Reporting Tools

- SQL Server Reporting Services 2005

- SAP Business Objects 4.x

Interfaces

- DEQ Environmental Mapper
- SIGMA
- MICARS
- HP Records Manager Document Management

Integrations

- Site Registry Data-Mart
- MICAM

Mobile

- Mobile websites
- Mobile web applications

Classes of users

- Administrators
- Work flow approvers / power users
- General users
- Technical users

1.104 WORK AND DELIVERABLES

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

I. Services and Deliverables to Be Provided

The Contractor will plan for the Solution to be installed and operational by **12/29/2017** ("Proposed Completion Date"). As these deliverables are not all inclusive, contractors may propose other deliverables. The following section includes the work and deliverables that the Contractor will be required to perform and / or submit during the contract term.

The development of the RIDE Solution must agree with the standards set forth in 1.103 Environment and effort to adhere to the Agile methodology. The requirements attached as Appendix B will be used as a starting point to define the scope of each of the planned eight (8) releases. This activity will occur during Sprint zero (0). In the event scrum sessions will be conducted virtually, the Contractor shall describe the tools and technology to be used. The costs associated with hosting virtual scrum sessions will be the responsibility of the Contractor.

In the event development is hosted by the Contractor, the contractor will perform the initial installation and configuration on site. Releases will be applied to the State "DEV" environment accompanied by executables and source code. A mid-term formal release will be made to the State "QA" environment supported by user acceptance testing (UAT) and training. The Contractor will provide all the documentation required to complete this task which includes but is not limited to test scripts and user manuals.

Interface and integration tasks will execute in parallel to development and the outputs will be available as needed.

The architecture of the final Solution will support operation from a browser and the user interface (UI) will adapt to tablets and mobile devices.

A. Business Requirements

The requirements of the RIDE Solution are documented in **Appendix B - RIDE REQUIREMENTS.** Initial planning tasks will execute under Sprint zero (0) and the outputs include a product road map and a scope baseline by release. This data will become a metric to monitor progress and support the creation of epics and user stories.

Deliverable(s)

The following deliverables as identified in table 2 **Appendix A - COST-TABLES** and must be completed and approved in writing by the DTMB PM before subsequent project effort begins.

1. Requirements Analysis Assessment which includes but is not limited to the following:

    - Identify data for product scope statement and roadmap
    - Identify gaps in scope of Appendix B - General Business and Technical Requirements for review and approval

2. Project Scope Management Plan which includes but is not limited to the following:

    - Project / product scope statement
    - Product roadmap
    - WBS
    - WBS Dictionary
    - WBS Glossary of terms

3. Project Plan which includes but is not limited to the following:

    - Project Network Diagram illustrating the critical path and any near critical paths
    - Project Communication Plan which includes but is not limited to the following
        - Roles and responsibilities
        - Escalation paths
    - Project Human Resource Plan
        - Organization Chart
        - All resources identified
    - Project Quality Plan which includes but is not limited to the following
        - Defect management

4. Project Schedule with tasks, durations, milestones, and resources identified

The **key deliverable** from the analysis of **Appendix B - General Business and Technical Requirements** will be the preliminary Product Roadmap and Requirements Traceability Matrix (SEM-0401) which will serve as an addendum to **Appendix B - General Business and Technical Requirements** (collectively referred to "RIDE Solution Requirements").

The RIDE Solution Requirements should organize scope by development release and identify any scope which may be delayed without critically impacting the release of the RIDE Solution.

Another **key deliverable** is **Enterprise Architecture Solution Assessment** which broadly defines the technologies supported by the State and is the corner stone of the system design.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

To be acceptable to the State:

The Contractor will facilitate work group meetings with the intent of identifying the data required to complete the Requirements Analysis Assessment, Project Scope Plan, Project Plan, and Project Schedule. The completed documents will be submitted to the DTMB PM for approval.

Supporting Documents

The Contractor shall deliver **preliminary** versions of the following documents:

- Project Schedule (MS Project or as agreed)
- Project Scope Management Plan (No template)
- Project Plan (No template)
- Test Plan (SEM-0602)
- Security Assessment (Template to be provided by the State)
- Interface Plan (No Template)
- Integration Plan (No Template)
- Requirements Trace-ability Matrix (SEM-0401)
- Security Assessment (DTMB 170)
- Product roadmap

The Contractor shall deliver updated versions of the following documents:

- Training Plan (SEM-0703)
- Enterprise Architecture Solution Assessment (Template to be provided by the State)

The Contractor shall deliver **final** versions of the following documents to the DTMB PM for approval and signoff.

- Requirements Analysis Assessment (SEM-0402)

Changes to the above template format must be approved in writing by the DTMB PM prior to submission.

Security Document (DTMB-170 as amended)

The contractor shall assist the PM in the completion of this document as required throughout the project life cycle.

B. Application Design

The Contractor will create a functional and system design for the RIDE Solution.

Functional Design

Functional design is both an outcome and a process. As an outcome, it describes products that work well to perform their assigned tasks; as a process, functional design is a set of practices guided by the principles that produce a positive outcome.

System Design

The technical quality of software can be defined as the level of conformance of a software system to a set of rules and guidelines derived from experience and best practices. The rules should cover software architecture (dependency structure), programming in general, testing and coding style.

Deliverable(s)

The Contractor will create a Functional Design (SEM-0501) document which will be approved in writing by the DTMB PM.

The Functional Design will include but is not limited to:

- A detailed description of functionality as result of the analysis and validation of **Appendix B - General Business and Technical Requirements**
- Interfaces
  - DEQ Environmental Mapper
  - SIGMA
  - MICARS

- HP Records Manager Document Management
- Integrations
  - DEQ Site Registry Data Mart
  - MICAM (miLogin)
- A description of functionality and how it will be incorporated into the new design
  - User Interface Design
  - User Interface Navigation Hierarchy
  - Function Categories (Use Cases)
  - Domain Design (Web solutions)
  - Data Design
  - Security structure and application roles
  - Mobile Design (Smartphones & Tablets)

The Contractor will create a System Design (SEM-0604) document which will be approved in writing by the DTMB PM.

The System Design will include but is not limited to:

- A detailed description of functionality in support of the RIDE Solution Assessment
- Mock-ups of all screens including their functionality
- Use-case document (initial) with business rules and calculations identified by data element and table
- A list and mock-up of the system-generated reports and queries in the RIDE report application with all business rules and calculations identified by data element and table
- A Conceptual Data Model which identifies all major entities and the relationships between them
- Documented interfaces
  - DEQ Environmental Mapper
  - SIGMA
  - MICARS
  - HP Records Manager Document Management
- Documented integrations
  - DEQ Site Registry Data Mart
  - MICAM (miLogin)
- A description of all data flows to and from the new RIDE system
- Database entity relationship models
- Communication protocols
- File formats
- Web services or other forms of communication
- Performance measures
- Operational redundancy

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

To be acceptable to the State:

The Contractor will create a Functional Design (SEM-0604) document which will be approved in writing by the DTMB PM.

Supporting Documents

The Contractor will deliver **preliminary** versions of the following documents:

- eMichigan Review (Template to be provided by the State)

The Contractor will deliver updated versions of the following documents:

- Project Plan (No Template)
- Interface Plan (No Template)
- Integration Plan (No Template)
- Security Assessment (Template to be provided by the State)
- Requirements Trace-ability Matrix (SEM-0401)
- Product Roadmap

The Contractor will deliver **final** versions of the following documents to the DTMB PM for approval and signoff.

- Functional Design (SEM-0501)
- System Design (SEM-0604)
- Enterprise Architecture Solution Assessment (template to be provided by the State)
- Hosting Solution for New Hardware[3] (template to be provided by the State)

Any changes to the above template format must be approved in writing by the DTMB PM prior to submission.

C. Application Development

The Contractor shall Develop the RIDE Solution

1. Plan development (viz. roadmap, epics, user stories)
2. Development scope will be managed as a series of releases. Each release will include six (6) sprints.
3. In accordance with the Requirements Traceability Matrix (SEM-0401), Functional Design (SEM-0501), System Design (SEM-0604) and the Requirements Analysis Assessment (SEM-0402) created as deliverables of Article 1, Section 1.104, A. Business Requirements and B. Application Design.
4. The RIDE Solution is written, organized, and documented in accordance with the standards identified in Article 1, Section 1.103 Environment.
5. The RIDE Solution uses the current ERNIE database to the greatest extent possible and eliminates the requirement to perform data migration and conversion.
6. Installed and validated in the State's "Development" environment, promoted and tested in the State's Quality Assurance (QA) environment prior to release into production. The Contractor should plan on a minimum of three weeks to promote the solution to production and this effort will be coordinated by the DTMB PM.

The Contactor shall Track Defects

The Contractor will track defects throughout development, testing, and implementation using a tool which is assessable and mutually agreed by the State and Contractor. Key attributes of the tool include but are not limited to:

- Create a defect
- Edit a defect
- Manage duplicate defects
- Plot trends and display statistics

Defect management should be a topic included in the Quality Plan and describe defect prevention, defect discovery, defect resolution, and process improvement.

[3] Hosting solution is only required if new hardware is needed

The Contractor shall Communicate Development Status

It is the responsibility of the Contractor to keep the DTMB PM and State Subject Matter Expert (SME) fully informed of the status of development. This will be accomplished by facilitating workgroup meetings, production demonstrations, structured walk troughs, or other methods as mutually agreed upon.

The Contractor shall comply with Audits

The State reserves the right to audit development by reviewing source code and associated documents of any release. If the State discovers violations of standards or it is determined the quality is not acceptable, the Contractor will receive notification of the findings by the DTMB PM and will have 20 business days to submit a corrective action plan to the DTMB PM for approval. The State reserves the rights to validate the remedies are in place as a result of executing the corrective plan. If corrective plan is not followed the State reserves the right to Stop Work under Section 2.180.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

To be acceptable to the State:

- The RIDE Solution must perform as described in the Requirements Analysis Assessment (SEM-0402) and satisfy functional and non-functional requirements.
- All defects are resolved, closed, or mitigated as mutually agreed.
- All audit finding are resolved, closed, or mitigated as mutually agreed.

Supporting Documents

The Contractor will deliver preliminary versions of the following documents:

- Implementation Plan (No Template)
- Maintenance Plan (SEM-0301)
- Software Configuration Plan (SEM-0302)
- Epics and user stories (No Template)

The Contractor will deliver updated versions of the following documents:

- Project Plan (No Template)
- Test Plan (SEM-0602)
- Training Plan (SEM-0703)
- Security Assessment (Template to be provided by the State)
- Requirements Trace-ability Matrix (SEM-0401)
- Integration Plan (No Template)
- Interface Plan (No Template)
- Epics and user stories (No Template)
- Product Roadmap (No Template)

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and written signoff.

- eMichigan Review (Template to be provided by the State)
- Epics and user stories (No Template)

Any changes to the above template format must be approved in writing by the DTMB PM prior to submission.

D. Implementation

The Contractor is responsible for facilitating and managing the release of the RIDE Solution into the State Production Environment and the Contractor will perform the initial installation and configuration on site. This includes creating tasks on the project schedule, building release packages, and convening workgroup meetings with the DTMB PM and SME's and creating step by step instructions.

Deliverable(s)

1. Configuration

The Contractor will configure the RIDE solution as described and approved in the Configuration Plan. This includes all configurations required by interfaces and integrations. The SIGMA interface will not be an impediment to the project as the an anticipated target is October, 2017.

Interfaces

- DEQ Environmental Mapper
- SIGMA
- MICARS
- HP Records Manager Document Management

Integrations

- Site Registry Data-Mart
- MICAM (miLogin)

Supporting Documents

The Contractor will deliver updated versions of the following documents:

- Project Plan (No Template)
- Test Plan (SEM-0602)
- Requirements Trace-ability (SEM-0401)
- Training Plan (SEM-0703)
- Interface Plan (No Template)
- Integration Plan (No Template)

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and signoff.

- Software Configuration Plan (SEM-0302)

2. Installation

Web and database packages delivered to the State for installation will include the following at a minimum.

- Source code from which the object code or executable was created
- Object code or executable
- Development notes
- Database scripts
- Supporting documentation

Web and database software packages of the RIDE Solution will be installed and validated in the State's Development environment, promoted and validated in the State's QA environment prior to release into production.

The databases must be production ready with all test data removed and supporting data (e.g. Michigan counties) for drop downs, combo boxes, and interfaces in place.

All interfaces and integrations must be complete and operational in the State's QA environment prior to release into production.

RIDE Solution must be approved as production ready by the Local Change Control Board and Enterprise Change Control Boards prior to release into production. All defects must be resolved or mitigated with all exceptions documented and mutually agreed prior to release into production.

Supporting Documents

The Contractor will deliver preliminary versions of the following documents:

- Transition Plan (SEM-0701)

The Contractor will deliver updated versions of the following documents:

- Maintenance Plan (SEM-0301)

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and signoff.

- Project Plan (No Template)
- Implementation Plan (No Template)
- Operational Readiness Report (No Template)
- Installation Plan (SEM-0702)
- Security Assessment (Template to be provided by the State)

3. Testing

Testing is the process of evaluating a system or its components with the intent to discover if it satisfies the specified requirements or not. The Contractor will perform testing and validation for quality throughout the project as described and approved in the test and quality plan. Common test processes includes but are not limited to:

- Black Box
- White Box
- Grey Box
- Functional
- Unit
- System
- Integration
- Regression
- Performance
- User Acceptance

The scope of testing will include software development, configuration, interfaces, integration, and installation. The Contractor will test to discover defects and to ensure the tested item functions to its intended purpose prior to testing being performed by State resources.

The software trace-ability matrix will be used to ensure all functionality is tested. Automated test processes must be documented and approved.

Supporting Documents

The Contractor will deliver preliminary versions of the following documents:

- User guides (No Template)
- Technical guides (No Template)
- Training materials (No Template)

The Contractor will deliver updated versions of the following documents:

- Project Plan (No Template)
- Implementation Plan (No Template)

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and signoff.

- Test Plan (SEM-0602)
- Test Scripts (SEM-0606)[4]
- Requirements Trace-ability (SEM-0401)

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

To be acceptable to the State:

- Configuration
  - RIDE Solution, interfaces, and integrations configured and approved
  - Defects reported, logged, mitigated or resolved
  - Convene product demonstrations as needed
  - Documents created by the Contractor utilize the following templates or as mutually agreed
    - Software Configuration Management Plan (SEM-0302)
- Installation
  - Installation packages successfully install into the State DEV, QA, and Production environment.
  - Documents created by the Contractor utilize the following templates or as mutually agreed
    - Installation Plan (SEM-0702)
- Testing
  - All test scenarios execute as expected and testing is approved
  - Defects reported, logged, mitigated or resolved
  - Documents created by the Contractor utilize the following templates or as mutually agreed
    - Requirements Traceability Matrix (SEM-0401)
    - Test Plan (SEM-0602)
    - Test Case (SEM-0606)

Changes to the above template format must be approved in writing by the DTMB PM prior to submission.

E. Training & Documentation

The Contractor must create a training plan with the goal to teach up to thirty two (32) End Users and up to five (5) Administrators in the use of the RIDE Solution which identifies the training approach, methods, schedules, tools, and curricula. Formal training will occur after midterm and final user acceptance testing and informal training as required during the development lifecycle.

The Contractor must create a training plan to teach up to four (4) DTMB Technical resources in all applicable Web hosting and Database duties for ongoing maintenance and support of the RIDE Solution including network and system security.

In addition to the training required to support development the Contractor will provided sixteen (16) hours of formal end user training, eight (8) hours of technical training, and four (4) hours of administrative training. Training will be on site or as agreed.

[4] The Contractor will lead testing tasks which includes the creation of test scripts and the analysis of test results. It is the responsibility of the Contractor to prove the Solution satisfies requirements.

The State will assume responsibility for providing physical resources for training which includes the following.

- Conference room with classroom style seating
- Single network connection for the instructor (optional Wi-Fi if available)
- Projector screen
- Teleconference enabled phone

(I) The State supports a limited number of formal classrooms which include student workstations but the Contractor should not assume they are suitable for meeting the training needs of this project or they will be available as needed. The Contractor may assume training will be held in a State owned facility in Lansing Michigan or as mutually agreed.

Deliverable(s)

End User training

The Contractor is responsible to train up to thirty two (32) End Users in the use of the application. Training shall include training identified stakeholders in the use of the system, testing, and validation.

End User training documentation

The Contractor will create professional training materials in both electronic and written formats which will serve as a reference in the operation of the RIDE Solution for up to thirty two (32) End Users. These documents must be current to the operational version of the RIDE Solution.

System Administrator training

The Contractor is responsible to train up to four (4) DEQ resources in the administration of the RIDE Solution. This includes but is not limited to adding users, changing privileges, and updating key data elements.

System Administrator training documentation

The Contractor will create professional administrator training materials which will also serve as a reference in the administration of the RIDE Solution.

Technical training

The Contractor is responsible to train four (4) DTMB technical staff in the maintenance and support of the RIDE Solution.

Technical training documentation

The Contractor will create professional technical materials in both electronic and written formats which will also serve as a reference in the maintenance and support of the RIDE Solution for up to four (4) DTMB resources.

Train the Trainer

The Contractor will ensure the training plan and training materials support a train the trainer approach for up to five (5) DEQ resources or as mutually agreed.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

To be acceptable to the State:

- Identified DEQ end users are proficient in the use of the RIDE Solution
- Identified DEQ system administrators are proficient in the administration of the RIDE Solution
- Identified DTMB technical staff are knowledgeable in the maintenance and support of the RIDE Solution
- End User, System Administration, and Technical manuals are submitted in both electronic and written formats.

Supporting Documents

The Contractor will deliver updated versions of the following documents:

- Project Plan (No Template)

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and signoff prior to beginning training activities.

- Training Plan (SEM-0703)
- End user training materials (No Template)
- Technical training materials (No Template)
- Administration training materials (No Template)

Upgrades and new versions to the system that affect end-user functionality will include training at no additional cost (e.g. classroom or online training, training flier, release features, etc.)

All training manuals, training plans and other documentation provided become the property of the State.

J. Maintenance and Support: Reserved

G. Warranty

For the warranty period, the Contractor warrants that the system will conform in all respects to the requirements as set forth in the Contract and the accepted deliverables.

If, within the warranty period, the RIDE Solution fails to comply with this warranty, the Contractor must repair defects as necessary at no cost to the State to bring the system into compliance with the warranty.

The State is responsible for notifying the Contractor of the failure providing the Contractor with adequate documentation and evidence to reproduce the failure, and when necessary demonstrating the failure so that the cause of the failure may be traced and corrected

Deliverable(s)

To be acceptable to the State:

Any defects discovered within the first one hundred and twenty (120) days of operation will be fixed at no additional charge to the State Warranty Period.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

H. Knowledge Transfer/Transition

The Contractor agrees to facilitate the transfer of knowledge to State resources during the transition period identified in the project schedule as a part of project close out.

Activities for this deliverable will be planned and documented in the Transition Plan (SEM-0701).

Deliverable(s)

To be acceptable to the State:

The Contractor has transferred knowledge to identified DTMB resources for the following purpose:

- DTMB technicians are knowledgeable in the operational maintenance and support of the Solution
- The DTMB SME is knowledgeable of the Solution to the extent they can evaluate reported issues to determine impact, severity, and assist the Contractor in the resolving issues during the warranty period.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.500 Acceptance and the criteria below.

Supporting Documents

The Contractor will deliver final versions of the following documents to the DTMB PM for approval and signoff.

- Transition Plan (SEM-0701)
- Maintenance Plan (SEM-0301)
- Lessons Learned (Template will be provided)
- Post Implementation Evaluation (Template will be provided)
- Benefits Realization Survey (Template will be provided)

I. Future Enhancements

The scope of work also includes a reserve bank of hours for the term of the Contract for additional services related to the Contractor environment. Services must be dependent upon mutually agreed upon statement(s) of work between the Contractor and the State of Michigan. Contractor must not commence to implement a statement of work until authorized via a purchase order issued against this Contract.

1.200 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

A. Contractor Staff

The Contractor will provide resumes for key staff, including subcontractors, who will be assigned to the Contract, indicating the duties/responsibilities and qualifications of such personnel, and stating the amount of time each will be assigned to the project. The competence of the (**"Key Contractor"**) personnel will be measured by the candidate's education and experience with particular reference to experience on similar projects as described in this Statement of Work. The Contractor will commit that staff identified in its proposal will actually perform the assigned work.

Contractor must provide a list of all subcontractors, including firm name, address, contact person, and a complete description of the work to be contracted. Include descriptive information concerning subcontractor's organization and abilities.

The Contractor will identify a Single Point of Contact (**"SPOC"**). The duties of the SPOC shall include, but are not be limited to:

- Support the management of the Contract
- Facilitate dispute resolution
- Advise the State of performance under the terms and conditions of the Contract

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

The Contractor will provide a Human Resource Plan updated as resources change, an organizational chart indicating lines of authority for personnel involved in performance of this Contract, and relationships of assigned staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work.

Contractor - Project Manager

The Contractor Project Manager shall interact with designated personnel from the State to insure a smooth transition to the new system. The project manager will coordinate all of the activities of the Contractor

personnel assigned to the project and create all reports required by State. The Contractor's Project Manager's responsibilities include at a minimum:

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

Contractor – Business Analyst

The Contractor Business Analyst is responsible for eliciting functional and technical requirements, gap analysis, meeting facilitation, documenting use case scenarios, perform business and workflow analysis.

Contractor – Senior Software Engineer

The Senior Software Engineer is the development lead and has expert knowledge in matters of design and build of the solution. The State anticipates the Senior Software Engineer will lead cross functional teams of subject matter experts, developers, and business analyst and will facilitate workgroup meetings.

Contractor – System Architect

The Contractor System Architect is responsible for leading and/or consulting on the development of the System Architecture and work closely with the DTMB Architect to ensure the Solution satisfies requirements and will function as designed in the State Enterprise network.

Contractor – Training Manager

The Contractor Training Manager is responsible for effectively leading training resources, development of the training plan, training manuals, and the execution of classes and other training opportunities.

Contractor - Test Manager

The Contractor Test Manager is responsible for drafting, managing, and executing test scripts which satisfy documented scenarios as mapped against the requirements traceability matrix. The test manager is also responsible for drafting the test plan.

Contractor – Developers or Other

Contractor developers are responsible for writing and testing software to satisfy requirements resulting in a high quality product which functions as designed without errors.

The Contractor will provide sufficient qualified staffing to satisfy the deliverables of this Statement of Work as planned.

B. On Site Work Requirements

1. Location of Work:

Work performed in the execution of this contract must occur at State facilities or Contractor offices located within the continental borders of the United States by individuals who are legally qualified to perform the work as defined by State and Federal labor laws. Tasks assigned to State resources will be executed in Lansing Michigan or as mutually agreed.

The RIDE Solution will be hosted in Lansing Michigan where testing and installation effort will occur.

The Contractor must identify in their proposal, with supporting justifications, the need to locate resources in State owned facilities. The State will consider these requests but cannot guarantee acceptance. In all scenarios it is the responsibility of the Contractor to secure space for Contractor resources in support of the project.

2. **Hours of Operation:**
   a. Normal State working hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.
   b. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project.
   c. Contractor shall observe the same standard holidays as State employees. The State does not compensate for holiday pay.
3. **Travel:**
   a. No travel expenses will be reimbursed. This includes travel costs related to training provided to the State by Contractor.
   b. Travel time will not be reimbursed
4. **Additional Security and Background Check Requirements:**

   Contractor must present certifications evidencing satisfactory Michigan State Police Background checks (ICHAT) and drug tests for all staff identified for assignment to this project.

   In addition, proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Print.

   Contractor will pay for all costs associated with ensuring their staff meet all requirements.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

If requested by the Contractor and approved by the DTMB PM, the State will provide the following resources for the Contractor's use on this project:

- State ID for admittance into a State facility
- Work space
- Minimum Clerical support
- Telephone
- PC workstation
- Access to State servers and enterprise resources (e.g. email)
- Access to Printers
- Access to copiers and fax machine
- Access to conference rooms

The State reserves the right to suspend or revoke assess to State resources at any time.

Executive Subject Matter Experts

The Executive Subject Matter Experts representing the business units involved will provide the vision for the business design and how the application shall provide for that vision. They shall be available on an as needed basis. The Executive SME's will be empowered to:

- Resolve project issues in a timely manner
- Review project plan, status, and issues
- Resolve deviations from project plan

- Provide acceptance sign off
- Utilize change control procedures
- Ensure timely availability of State resources

Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.

Project Manger

State Project Manager – (DTMB PM)

DTMB will provide a Project Manager who will be responsible for the State's infrastructure and coordinate with the Contractor in determining the system configuration.

The DTMB PM will provide the following services:

- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve project issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Conduct regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

Name	Agency/Division	Title
Gaurang Mehta	DTMB	Project Manager
Phil Schrantz	Agency	Project Coordinator

1.203 OTHER ROLES AND RESPONSIBILITIES

The State anticipates the following roles will be needed by the project and will assign resources to these roles.

DTMB Roles

- Project Manager
- Project Owner
- Business Analysts
- Hardware / Software Architect and Subject Matter Experts
- Developer Subject Matter Experts
- Web Hosting Subject Matter Experts
- Database Subject Matter Experts
- Telecom Subject Matter Experts
- Security Subject Matter Experts

DEQ Roles

- Project Coordinator
- Subject Matter Experts by Discipline

- Accounting
- Enforcement
- Regulations
- Grants
- Toxicology
- Contracts
- MAIN Accounting
- Environmental Mapper
- HP Records Manager document management
- MICARS
- Site Registry
- Other as identified

Prominent Project Roles

DTMB PM -- State Project Manager

DTMB – Business Analyst

The DTMB business analyst is responsible for executing and completing tasks assigned by the DTMB PM, is expected to be knowledgeable in the application, and ensures DEQ needs are being met.

DTMB - Project Owner

The DTMB Project Owner is responsible for assisting the DTMB PM in the execution of the project. This includes but is not limited to the assignment of State resources.

DTMB – System Architect

The DTMB Architect will advise the Contractor in matters of system design to ensure the Solution supports State standards and the State Enterprise Environment.

DEQ - Project Coordinator

The DEQ Project Coordinator has expert knowledge in matters of requirements and is responsible for assisting the DTMB PM in managing DEQ resources in the execution of tasks.

- Resolve agency project issues in a timely manner
- Review effort, status, and issues
- Assist DTMB PM resolve deviations from the project plan
- Provide acceptance sign-off
- Utilize change control procedures
- Ensure timely availability of agency resources
- Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.

DEQ -- Subject Matter Expert(s)

A DEQ Subject Matter Expert is an individual who has expert knowledge of a business subject or requirement and is able to answer questions brought forward.

Typical Assignments

Steering Committee

- DEQ Division Chief
- DEQ Project Coordinator
- DTMB Business Relationship Manager
- DTMB PM
- DTMB Project Owner

- Contractor Contract Manager
- Contractor PM

Project Leadership

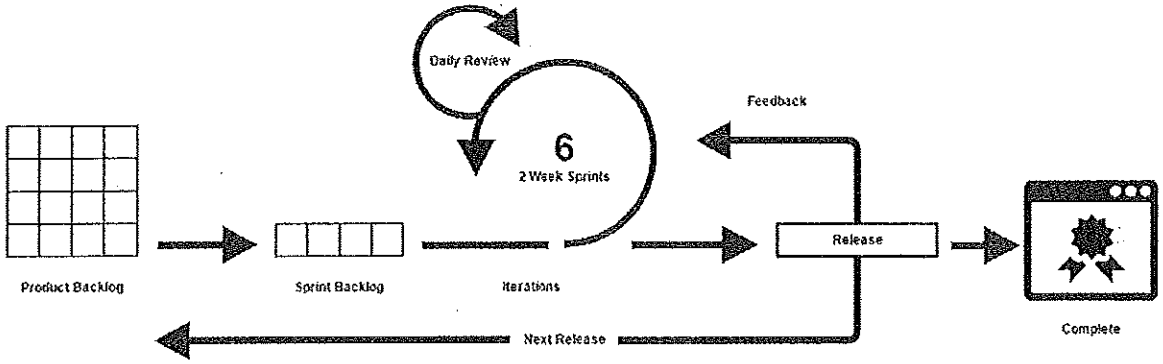
- Contractor PM
- Contractor Senior Software Engineer
- DTMB PM
- DTMB Project Owner
- DEQ Project Coordinator

Project Change Control Board

- Contractor PM
- Contractor Senior Software Engineer
- DTMB PM
- DTMB Project Owner
- DEQ Project Coordinator

1.300 Project Plan

1.301 PROJECT PLAN MANAGEMENT



Project Management for Agile Development

Preliminary Project Plan

The initial high level preliminary Project Plan (Project Plan) with will communicate how the Contractor will successfully deliver this project and include the anticipated timeframes and deliverables for the various stages/releases, and note the obligations of both the Contractor and the State.

The Project Plan will model the agile development methodology. As a result of an analogous estimate the State believes it will take eight releases comprised of six sprints to complete the development of the Solution. All preliminary planning tasks will be executed as sprint zero (0) with an estimated duration of seventy business days.

Include in the Project Plan narrative how the Agile Development processes will be managed. This includes, but is not limited to daily scrum meetings, backlogs, sprints, and releases. The Contractor may assume the State will fill the role of *Scrum Master* with a State resource.

Two of the releases will be a formal "QA Release" with code deployed to the Quality Assurance (QA) environment for the purpose of User Acceptance Testing (UAT) and Training. The first QA Release target is mid-term in the development cycle. The second QA Release target is after the final development release and prior to the release into Production. The scope of the second UAT must include new functionality and any regression testing to ensure the solution is ready for Production.

The successful completion of the second QA Release is a requirement for deployment into the Production environment.

Release six (6), seven (7), and eight (8) are identified as optional and although the Contractor must bid these releases in their proposal, the State may elect to exclude them in the initial contract award. Refer to **INITIAL PRODUCT BACKLOG** to match requirements to specific releases. Pricing for optional releases will be considered valid until project closeout.

In the event the State elects to exclude one or more of the optional releases the requirements associated to those releases will be considered eliminated and all baselines adjusted.

1. In particular, the Project Plan will include a MS Project schedule or equivalent (check the SUITE/PMM standard):
    a. A description of the deliverables to be provided under this contract.
    b. Target dates and critical paths for the deliverables.
    c. Identification of roles and responsibilities, including the organization responsible. Contractor is to provide a roles and responsibility matrix.
    d. The labor, hardware, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Project Plan.
    e. Internal milestones
    f. Task durations
2. The Preliminary Project Plan shall include the following deliverable/milestones for which payment shall be made (see Appendix A - Cost-Tables).
    - Schedule A – Sprint 0 Planning
    - Schedule B - Release 1
    - Schedule B - Release 2
    - Schedule B - Release 3
    - Schedule B - Release 4
    - Schedule B - Release 5
    - Schedule B - Release 6
    - Schedule B - Release 7
    - Schedule B - Release 8
    - Schedule C - Interfaces & Integrations
    - Schedule E - Implementation

Payment to the Contractor will be made upon the completion and acceptance of the deliverable or milestone, not to exceed contractual costs of the phase. A milestone is defined as complete when all of the deliverables within the milestone are complete and approved.

Failure to provide deliverable/milestone by the identified date may be subject to liquidated damages as identified in Article 2.

Orientation Meeting

Upon forty five (45) calendar days from execution of the Contract, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance of the meeting.

Performance Review Meetings

The State will require the Contractor to attend monthly meetings, at a minimum, to review the Contractor's performance under the Contract. The meetings will be held in Lansing, Michigan, or by teleconference, as mutually agreed by the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

Project Control

1. The Contractor will carry out this project under the direction and control of DTMB and DEQ.
2. Within forty five (45) calendar days of the execution of the Contract, the Contractor will submit the project plan to the DTMB PM and appropriate stake holders for final approval. This project plan must be in agreement with Article 1, Section 1.104 Work and Deliverables, and must include the following:
   - Project Schedule with tasks, durations, milestones, and resources identified
   - Project network diagram illustrating the critical path and any near critical paths
   - Project Plan which includes the following
     - Project Organizational Chart
     - Communication Plan showing all paths of communication and escalation
     - Human Resource Plan with all resources identified by role, purpose, and commitment
     - Scope Management Plan
     - Quality Plan which includes testing, defect management, and quality improvement
     - Risk Plan
3. The Contractor will manage the project in accordance with the SUITE methodology, which includes standards for project management, systems engineering, and associated forms and templates which are available at

   http://www.michigan.gov/suite

   a. Contractor will use an automated tool for planning, monitoring, and tracking the Contract's progress and the level of effort of any Contractor personnel spent performing Services under the Contract. The tool shall have the capability to produce:
      - Staffing tables with names of personnel assigned to Contract tasks.
      - Project schedule showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next ninety (90) calendar days, updated biweekly).
      - Updates must include actual time spent on each task and a revised estimate to complete.
      - Graphs showing critical events, dependencies and decision points during the course of the Contract.

   c. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State standards.

1.302 REPORTS

Reporting formats must be submitted to the DTMB PM for approval within thirty (30) calendar days after the execution of the contract. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract.

- Bi-weekly Project status (PMM-0013)
  - Summary of activity during the reporting period
  - Accomplishments during the reporting period
  - Next Steps for next reporting period
  - Risks
  - Issues
- Updated project schedule
- Updated project plan
- Deliverable status
- Change Control
- Risk & Issues

1.400 Project Management

1.401 ISSUE MANAGEMENT

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

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

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

Issues shall be escalated as mutually agreed in the Project Plan or as follows.

- Level 1 – Contractor Team/Technical leads and RIDE Subject Matter Experts
- Level 2 – Contractor Project Manager, DTMB PM and DEQ Project Coordinator
- Level 3 – RIDE Executive Project Sponsor

1.402 RISK MANAGEMENT

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the project.

The Contractor is responsible for establishing a risk management plan and process, including the identification and recording of risk items, prioritization of risks, definition of mitigation strategies, monitoring of risk items, and periodic risk assessment reviews with the State.

A risk management plan format shall be submitted to the State for approval within twenty (20) business days after the effective date of the contract. The risk management plan will be developed during the initial planning phase of the project, and be in accordance with the State's PMM methodology. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated bi-weekly, or as mutually agreed upon.

The Contractor shall provide the tool to track risks. The Contractor will work with the State and allow input into the prioritization of risks.

The Contractor is responsible for identification of risks for each phase of the project. Mitigating and/or eliminating assigned risks will be the responsibility of the Contractor. The State will assume the same responsibility for risks assigned to them.

1.403 CHANGE MANAGEMENT

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

All changes must be submitted to and approved by the Project Change Control Board and signed by the DEQ Project Coordinator.

If a proposed contract change is approved by the Project Change Control Board, the board will submit a request for change to the DTMB-Procurement Buyer, who will make recommendations to the Director of

DTMB-Procurement regarding ultimate approval/disapproval of change request. If the DTMB-Procurement Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board, if applicable), the DTMB-Procurement Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DTMB-Procurement, risk non-payment for the out-of-scope/pricing products and/or services.**

The Contractor must employ change management procedures to handle such things as "out-of-scope" requests or changing business needs of the State while the project is underway.

The Contractor will employ the change control methodologies to justify changes in the processing environment, and to ensure those changes will not adversely affect performance or availability.

1.500 Acceptance

1.501 CRITERIA

The following criteria will be used by the State to determine Acceptance of the services and/or deliverables provided under this contract.

Document Deliverables

1. Documents are dated and in electronic format, compatible with State of Michigan software in accordance with Article 1.302.
2. Requirements documents are reviewed and updated throughout the development process to assure requirements are delivered in the final product.
3. Draft documents are not accepted as final deliverables.
4. The documents will be reviewed and accepted in accordance with the requirements of the Contract and Appendices.
5. DTMB will review documents within a mutually agreed upon timeframe.
    a. Approvals will be written and signed by DTMB PM.
    b. Issues will be documented and submitted to the Contractor.
    c. After issues are resolved or waived, the Contractor will resubmit documents for approval within 30 days of receipt.

Software Deliverables

Software includes, but is not limited to, software product, development tools, support tools, integration software, and installation software.

1. Beta software is not accepted as the final deliverable.
2. The software will be reviewed and accepted in accordance with the requirements of the contract.
3. DTMB will review software within a mutually agreed upon timeframe for acceptance of functionality, usability, installation, performance, security, standards compliance, backup/recovery, and operation.
    a. Approvals will be written and signed by DTMB PM.
    b. Unacceptable issues will be documented and submitted to the Contractor.
    c. After issues are resolved or waived, the Contractor will resubmit software for approval within 30 days of receipt.
4. Software is installed and configured, with assistance from DTMB, in an appropriate environment (e.g. development, QA, production).
5. Contingency plans, de- installation procedures, and software are provided by the Contractor and approved by DTMB PM.

6. Final Acceptance of the software will depend on the successful completion of User Acceptance Testing (UAT).
7. Testing will demonstrate the system's compliance with the requirements of the contract. At a minimum, the testing will confirm the following:
    a. Functional - the capabilities of the system with respect to the functions and features described in the contract.
    b. Performance - the ability of the system to perform the workload throughput requirements. All problems should be completed satisfactorily within the allotted time frame.
8. DTMB will review test software, data, and results within a mutually agreed upon timeframe.
    a. Approvals will be written and signed by DTMB PM.
    b. Unacceptable issues will be documented and submitted to the Contractor.
    c. After issues are resolved or waived, the Contractor will resubmit test software, data and results for approval within 30 days of receipt.
9. Software source code, where applicable, is reviewed by DTMB within a mutually agreed upon timeframe for readability, structure, and configuration management.
    a. Approvals will be written and signed by DTMB PM.
    b. Unacceptable issues will be documented and submitted to the Contractor.
    c. After issues are resolved or waived, the Contractor will resubmit source code for approval.

The following is standard acceptance criteria for document and software deliverables. Any specific criteria, processes and/or procedures required by your agency for each deliverable/milestone should be identified in Section 1.104 Work and Deliverables.

1.502 FINAL ACCEPTANCE

Final acceptance will occur when all deliverables defined in Article 1 and per the acceptance criteria defined in Section 1.501 have been completed and written approval have been obtained ("**Final Acceptance**").

In the event the work and/or deliverable is not accepted by the DTMB PM the State will respond to the Contractor with written notice describing the deficiencies using a corrective action plan listing tasks with associated completion dates. The contractor has five (5) business days to respond to the notice indicating agreement to the terms unless an alternate Solution is agreed by both parties. Upon completion, State will have ten (10) business days to accept and approve the revised deliverable(s).

If the State does not approve the revised deliverable(s) after the third (3rd) attempt, the State shall have the option to negotiate an acceptable alternative, collect penalties for the incomplete and/or late deliverable, or terminate the Contract pursuant to Section 2.152, Termination for Cause.

1.600 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Method of Payment

The project will be paid on a firm fixed price basis, including all post-implementation costs. All costs associated with future enhancements will be submitted in a contract change notice with a Statement of Work for a firm fixed price in accordance with the Contractor's rate card. The Costs Table(s) attached must be used as the format for submitting pricing information.

Travel

The State will **NOT** pay for any travel expenses, including hotel, mileage, meals, parking, etc. Travel time will not be reimbursed.

Statements of Work and Issuance of Purchase Orders

- Unless otherwise agreed by the parties, each Statement of Work will include:
    1. Background
    2. Project Objective
    3. Scope of Work
    4. Deliverables
    5. Acceptance Criteria
    6. Project Control and Reports
    7. Specific Department Standards
    8. Payment Schedule
    9. Project Contacts
    10. Agency Responsibilities and Assumptions
    11. Location of Where the Work is to be performed
    12. Expected Contractor Work Hours and Conditions

- The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract. Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.

Invoicing

Contractor will submit properly itemized invoices to

DTMB – Financial Services
Accounts Payable
P.O. Box 30026
Lansing, MI 48909
or
DTMB-Accounts-Payable@michigan.gov

. Invoices must provide and itemize, as applicable:

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of any commodities/hardware, including quantity ordered;
- Date(s) of delivery and/or date(s) of installation and set up;
- Price for each item, or Contractor's list price for each item and applicable discounts;
- Net invoice price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice price; and
- Payment terms, including any available prompt payment discount.

Incorrect or incomplete invoices will be returned to Contractor for correction and reissue.

Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 CONTRACT TERM

This Contract is for a period of five (5) years beginning October 27, 2015 through October 27, 2020. All outstanding Purchase Orders must also expire upon the termination for any of the reasons listed in **Section 2.150** of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, shall remain in effect for the balance of the fiscal year for which they were issued.

2.002 OPTIONS TO RENEW

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for five (5) additional one (1) year periods.

2.003 LEGAL EFFECT

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

Except as otherwise agreed in writing by the parties, the State shall not be liable for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract or Change Order has been approved by the State Administrative Board (if required), signed by all the parties and a Purchase Order against the Contract has been issued.

2.004 ATTACHMENTS & EXHIBITS

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

2.005 ORDERING

The State must issue an approved written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are specifically contained in that Purchase Order or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown; however, the Contractor will be required to furnish all such materials and services as may be ordered during the Contract period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 ORDER OF PRECEDENCE

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

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

2.007 HEADINGS

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

2.008 FORM, FUNCTION & UTILITY

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

2.009 REFORMATION AND SEVERABILITY

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

2.010 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

2.011 NO WAIVER OF DEFAULT

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

2.012 SURVIVAL

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section

2.020 Contract Administration

2.021 ISSUING OFFICE

This Contract is issued by the Department of Technology, Management and Budget, Procurement and DEQ (collectively, including all other relevant State of Michigan departments and agencies, the "State"). DTMB-Procurement is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. The DTMB-Procurement Contract Administrator for this Contract is:

Buyer Michael Breen
Procurement
Department of Technology, Management and Budget
530 W. Allegan Constitution Hall 1st floor
Lansing, MI 48933
Email breenm@michigan.gov
Phone517-284-7002

2.022 CONTRACT COMPLIANCE INSPECTOR

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

Gaurang Mehta
PMO Project Manager
Department of Technology, Management and Budget
108 West Allegan
Lansing MI 48933
MehtaG@michigan.gov
(517) 241-7996

2.023 PROJECT MANAGER

The following individual will oversee the project:

Gaurang Mehta
PMO Project Manager
Department of Technology, Management and Budget
108 West Allegan
Lansing MI 48933
MehtaG@michigan.gov
(517) 241-241-7996

2.024 CHANGE REQUESTS

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

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

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

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

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

(2) Contractor Recommendation for Change Requests:

Contractor shall be entitled to propose a Change to the State, on its own initiative, should Contractor believe the proposed Change would benefit the Contract.

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

(4) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(5) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Technology, Management and Budget, Procurement.

(6) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

2.025 NOTICES

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

State:

Delivery or Courier

State of Michigan
DTMB-Procurement
Attention: Michael Breen
1st Floor, Constitution Hall
525 West Allegan
Lansing, Michigan 48933-1502

United States Postal Service

State of Michigan
DTMB-Procurement
Attention: Michael Breen
PO Box 30026
Lansing, MI 48909-7526

Contractor:

Name: Brian Smith
Address: 110 West Michigan, Suite 650, Lansing, MI 48933

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

2.026 BINDING COMMITMENTS

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

2.027 RELATIONSHIP OF THE PARTIES

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

2.028 COVENANT OF GOOD FAITH

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

2.029 ASSIGNMENTS

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

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

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

2.030 General Provisions

2.031 ADMINISTRATIVE FEE AND REPORTING

The Contractor must remit an administrative fee of one percent (1%) on all payments remitted to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales.

Itemized purchasing activity reports should be mailed to DTMB-Procurement and the administrative fee payments shall be made by check payable to the State of Michigan and mailed to:

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

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each quarter.

2.032 MEDIA RELEASES

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

2.033 CONTRACT DISTRIBUTION

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

2.034 PERMITS

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

2.035 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.

2.036 FUTURE BIDDING PRECLUSION

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

2.037 FREEDOM OF INFORMATION

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

2.038 DISASTER RECOVERY

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract shall provide the State with priority service for repair and work around in the event of a natural or man-made disaster.

2.040 Financial Provisions

2.041 FIXED PRICES FOR SERVICES/DELIVERABLES

Each Statement of Work or Purchase Order issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor shall show verification of measurable progress at the time of requesting progress payments.

2.042 ADJUSTMENTS FOR REDUCTIONS IN SCOPE OF SERVICES/DELIVERABLES

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

2.043 SERVICES/DELIVERABLES COVERED

The State shall not be obligated to pay any amounts in addition to the charges specified in this Contract for all Services/Deliverables to be provided by Contractor and its Subcontractors, if any, under this Contract,.

2.044 INVOICING AND PAYMENT – IN GENERAL

(a) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(b) Each Contractor invoice shall show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis shall show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.600**.

(c) Correct invoices shall be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d1) All invoices should reflect actual work done. Specific details of invoices and payments shall be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Procurement, Department of Technology, Management and Budget. This activity shall occur only upon the specific written direction from DTMB-Procurement.

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

The Government may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.045 PRO-RATION

To the extent there are Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

2.046 ANTITRUST ASSIGNMENT

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

2.047 FINAL PAYMENT

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor shall it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.048 ELECTRONIC PAYMENT REQUIREMENT

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

2.050 Taxes

2.051 EMPLOYMENT TAXES

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

2.052 SALES AND USE TAXES

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

2.060 Contract Management

2.061 CONTRACTOR PERSONNEL QUALIFICATIONS

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent contractors engaged by Contractor solely in a staff augmentation role must be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

2.062 CONTRACTOR KEY PERSONNEL

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

(b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(c) The State shall have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor shall notify the State of the proposed assignment, shall introduce the individual to the appropriate State representatives, and shall provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State shall provide a written explanation including reasonable detail outlining the reasons for the rejection.

(d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The

Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.

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

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

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

2.064 CONTRACTOR PERSONNEL LOCATION

All staff assigned by Contractor to work on the Contract shall perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel shall, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.065 CONTRACTOR IDENTIFICATION

Contractor employees must be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.066 COOPERATION WITH THIRD PARTIES

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor shall provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with this Contract and shall not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with the requests for access.

2.067 CONTRACT MANAGEMENT RESPONSIBILITIES

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

The Contractor shall provide the Services/Deliverables directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor shall act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables.

Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.068 CONTRACTOR RETURN OF STATE EQUIPMENT/RESOURCES

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

2.070 Subcontracting by Contractor

2.071 CONTRACTOR FULL RESPONSIBILITY

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

2.072 STATE CONSENT TO DELEGATION

Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Technology, Management and Budget, Procurement has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State shall agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work shall not be counted for a time agreed upon by the parties.

2.073 SUBCONTRACTOR BOUND TO CONTRACT

In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor shall be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State shall not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. A list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract is attached.

2.074 FLOW DOWN

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

2.075 COMPETITIVE SELECTION

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.080 State Responsibilities

2.081 EQUIPMENT

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

2.082 FACILITIES

The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the Contractor in the course of providing the Services. Contractor agrees that it shall not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

2.090 Security

2.091 BACKGROUND CHECKS

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

2.100 Confidentiality

2.101 CONFIDENTIALITY

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

2.102 PROTECTION AND DESTRUCTION OF CONFIDENTIAL INFORMATION

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

Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect the Confidential Information from unauthorized use or disclosure.

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

2.103 RESERVED

2.104 EXCLUSIONS

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

2.105 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.

2.106 SECURITY BREACH NOTIFICATION

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State shall cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 72 hours of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.107 RESPECTIVE OBLIGATIONS

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

2.110 Records and Inspections

2.111 INSPECTION OF WORK PERFORMED

The State's authorized representatives, at reasonable times and with 10 days prior notice, have the right to enter the Contractor's premises or any other places where work is being performed in relation to this Contract. The representatives may inspect, monitor, or evaluate the work being performed, to the extent the access will not reasonably interfere with or jeopardize the safety or operation of Contractor's systems or facilities. The Contractor must provide reasonable assistance for the State's representatives during inspections.

2.112 RETENTION OF RECORDS

(a) The Contractor must retain all financial and accounting records related to this Contract for a period of 5 years after the Contractor performs any work under this Contract (Audit Period).

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records 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.

2.113 EXAMINATION OF RECORDS

(a) The State, upon 10 days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this Contract any time during the Audit Period. The State does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor, or any Subcontractor that performs services in connection with this Contract

(b) In addition to the rights conferred upon the State in paragraph (a) of this section and in accordance with MCL 18.1470, DTMB or its designee may audit the Contractor to verify compliance with the Contract. The financial and accounting records associated with the Contract shall be made available to DTMB or its designee and the auditor general, upon request, during the term of the Contract and any extension of the Contract and for 3 years after the later of the expiration date or final payment under the Contract.

2.114 AUDIT RESOLUTION

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

2.115 ERRORS

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

(b) In addition to other available remedies, if the difference between the State's actual payment and the correct invoice amount, as determined by an audit, is greater than 10%, the Contractor must pay all reasonable audit costs.

2.120 Warranties

2.121 WARRANTIES AND REPRESENTATIONS

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under neither this Contract, nor their use by the State shall infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or

degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Contractor for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Contractor; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor.

(l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.

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

(n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Technology, Management and Budget, Procurement.

2.122 WARRANTY OF MERCHANTABILITY

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

2.123 WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

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

2.124 WARRANTY OF TITLE

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

2.125 RESERVED

2.126 RESERVED

2.127 RESERVED

2.128 RESERVED

2.130 Insurance

2.13.1 LIABILITY INSURANCE

For the purpose of this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The Contractor must provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect the State from claims that may arise out of, or result from, or are alleged to arise out of, or result from, the Contractor's or a Subcontractor's performance, including any person directly or indirectly employed by the Contractor or a Subcontractor, or any person for whose acts the Contractor or a Subcontractor may be liable.

(b) The Contractor waives all rights against the State for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(c) All insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.

(d) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(e) Unless the State approves otherwise, any insurer must have an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State.

(f) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits.

(g) The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three (3) years following the termination of this Contract.

(h) The Contractor must provide, within five (5) business days, written notice to the Director of DTMB-Procurement if any policy required under this section is cancelled. The notice must include the applicable Contract or Purchase Order number.

(i) The minimum limits of coverage specified are not intended, and may not be construed, to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(j) The Contractor is responsible for the payment of all deductibles.

(k) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days' 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 require the Contractor to pay that cost upon demand.

(l) 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 Michigan Attorney General.

(m) The Contractor is required to pay for and provide the type and amount of insurance checked ☑ below:

☑ **(i) Commercial General Liability**

Minimal Limits:

$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, and
$1,000,000 Each Occurrence Limit.

Deductible maximum:

$50,000 Each Occurrence

Additional Requirements:

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 the insurance policy contains a waiver of subrogation by the insurance company.

The Products/Completed Operations sublimit requirement may be satisfied by evidence of the manufacturer's Commercial General Liability Insurance. The manufacturer 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 and must provide evidence that the policy contains a waiver of subrogation by the insurance company.

☐ **(ii) Umbrella or Excess Liability**

Minimal Limits:

$10,000,000.00 General Aggregate

Additional Requirements:

Umbrella or Excess Liability limits must at least apply to the insurance required in (i), General Commercial Liability. The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ **(iii) Motor Vehicle**

Minimal Limits:

If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.

☐ **(iv) Hired and Non-Owned Motor Vehicle Coverage**

Minimal Limits:

$1,000,000 Per Incident

Additional Requirements:

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.

☑ **(v) Workers' Compensation**

Minimal Limits:

The Contractor must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, the Contractor must provide proof of an approved self-insured authority by the jurisdiction of domicile.

For employees working outside of the state of the Contractor's domicile, the Contractor must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Additional Requirements:

The Contractor must provide the applicable certificates of insurance and a list of states where the coverage is applicable. Contractor must provide proof that the Workers' Compensation insurance policies contain a waiver of subrogation by the insurance company, except where such a provision is prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☑ **(vi) Employers Liability**

Minimal Limits:

$100,000 Each Incident
$100,000 Each Employee by Disease
$500,000 Aggregate Disease

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate.

Additional Requirements:

Insurance must cover Forgery and Alteration, Theft of Money and Securities, Robbery and Safe Burglary, Computer Fraud, Funds Transfer Fraud, Money Order and Counterfeit Currency.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as Loss Payees on the certificate.

☐ **(viii) Professional Liability (Errors and Omissions)**

Minimal Limits:

$3,000,000 Each Occurrence
$3,000,000 Annual Aggregate

Deductible Maximum:

$50,000 Per Loss

☑ **(ix) Privacy and Security Liability (Cyber Liability)**

Minimal Limits:

$1,000,000 Each Occurrence
$1,000,000 Annual Aggregate

Additional Requirements:

Insurance should cover (a) unauthorized acquisition, access, use, physical taking, identity theft, mysterious disappearance, release, distribution or disclosures of personal and corporate information; (b) transmitting or receiving malicious code via the insured's computer system; (c) denial of service attacks or the inability to access websites or computer systems.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate.

☐ **(x) Property Insurance**

Property Insurance covering any loss or damage to the State-owned office space used by Contractor for any reason under this Contract, and the State-owned equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The State must be endorsed on the policy as a loss payee as its interests appear.

2.13.2 SUBCONTRACTOR INSURANCE COVERAGE

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.13.1, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

2.13.3 CERTIFICATES OF INSURANCE

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 of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents are listed as additional insureds as required. The Contractor must provide DTMB-Procurement with all applicable certificates of insurance verifying insurance coverage or providing, if approved, satisfactory evidence of self-insurance as required in Section 2.13.1, Liability Insurance. Each certificate must be on the standard "Accord" form or equivalent and MUST IDENTIFY THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER.

2.140 Indemnification

2.141 GENERAL INDEMNIFICATION

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

2.142 CODE INDEMNIFICATION

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

2.143 EMPLOYEE INDEMNIFICATION

In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

2.144 PATENT/COPYRIGHT INFRINGEMENT INDEMNIFICATION

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and

performance so that it becomes non-infringing, or, if the option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

2.145 CONTINUATION OF INDEMNIFICATION OBLIGATIONS

The Contractor's duty to indemnify under this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

2.146 INDEMNIFICATION PROCEDURES

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

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

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

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State may defend the claim in the manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor must promptly reimburse the State for all the reasonable costs and expenses.

2.150 Termination/Cancellation

2.151 NOTICE AND RIGHT TO CURE

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

2.152 TERMINATION FOR CAUSE

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

(b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

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

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

2.153 TERMINATION FOR CONVENIENCE

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

2.154 TERMINATION FOR NON-APPROPRIATION

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

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise

unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract shall be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

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

2.155 TERMINATION FOR CRIMINAL CONVICTION

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense related to a State, public or private Contract or subcontract.

2.156 TERMINATION FOR APPROVALS RESCINDED

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

2.157 RIGHTS AND OBLIGATIONS UPON TERMINATION

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

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

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

2.158 RESERVATION OF RIGHTS

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

2.160 Termination by Contractor

2.161 TERMINATION BY CONTRACTOR

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

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

2.170 Transition Responsibilities

2.171 CONTRACTOR TRANSITION RESPONSIBILITIES

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor shall comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed (thirty) 30 days. These efforts must include, but are not limited to, those listed in **Section 2.150.**

2.172 CONTRACTOR PERSONNEL TRANSITION

The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

2.173 CONTRACTOR INFORMATION TRANSITION

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

2.174 CONTRACTOR SOFTWARE TRANSITION

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

2.175 TRANSITION PAYMENTS

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

2.176 STATE TRANSITION RESPONSIBILITIES

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to reconcile all accounts between the State and the Contractor, complete any pending post-project reviews and perform any others obligations upon which the State and the Contractor agree.

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

2.180 Stop Work

2.181 STOP WORK ORDERS

The State may, at any time, by written Stop Work Order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order must be identified as a Stop Work Order and must indicate that it is issued under this **Section**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the Stop Work Order as provided in **Section 2.182**.

2.182 CANCELLATION OR EXPIRATION OF STOP WORK ORDER

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

2.183 ALLOWANCE OF CONTRACTOR COSTS

If the Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated for reasons other than material breach, the termination shall be deemed to be a termination for convenience under **Section 2.153**, and the State shall pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this Section.

2.190 Dispute Resolution

2.191 IN GENERAL

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

2.192 INFORMAL DISPUTE RESOLUTION

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

(1) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(2) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract shall be honored in order that each of the parties may be fully advised of the other's position.

(3) The specific format for the discussions shall be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(4) Following the completion of this process within 60 calendar days, the Director of Procurement, DTMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section shall not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.193.

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

2.193 INJUNCTIVE RELIEF

A claim between the State and the Contractor is not subject to the provisions of Section 2.192, Informal Dispute Resolution, where a party makes a good faith determination that a breach of the Contract by the other party will result in damages so immediate, so large or severe, and so incapable of adequate redress that a temporary restraining order or other injunctive relief is the only adequate remedy.

2.194 CONTINUED PERFORMANCE

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

2.200 Federal and State Contract Requirements

2.201 NONDISCRIMINATION

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

2.202 UNFAIR LABOR PRACTICES

Under 1980 PA 278, MCL 423.321, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor,

manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 WORKPLACE SAFETY AND DISCRIMINATORY HARASSMENT

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

2.204 PREVAILING WAGE

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

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

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

2.210 Governing Law

2.211 GOVERNING LAW

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

2.212 COMPLIANCE WITH LAWS

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

2.213 JURISDICTION

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

2.220 Limitation of Liability

2.221 LIMITATION OF LIABILITY

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

caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

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

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

2.230 Disclosure Responsibilities

2.231 DISCLOSURE OF LITIGATION

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

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

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

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

(c) Contractor shall make the following notifications in writing:
   (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB-Procurement.
   (2) Contractor shall also notify DTMB Procurement within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
   (3) Contractor shall also notify DTMB-Procurement within 30 days whenever changes to company affiliations occur.

2.232 CALL CENTER DISCLOSURE

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

2.233 BANKRUPTCY

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

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

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

2.240 Performance

2.241 TIME OF PERFORMANCE

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

2.242 SERVICE LEVEL AGREEMENT (SLA)

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

  (1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
  (2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
  (3) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
  (4) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
    (i) Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
    (ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.
(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.

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

2.243 LIQUIDATED DAMAGES

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.152**, the State is entitled to collect liquidated damages in the amount of $5,000.00 and an additional $1000.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Unauthorized Removal of any Key Personnel
It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.152**, the State may assess liquidated damages against Contractor as specified below.

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

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

2.244 EXCUSABLE FAILURE

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

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

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected

Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.250 Approval of Deliverables

2.251 DELIVERY OF DELIVERABLES

A list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or a Custom Software Deliverable is attached, if applicable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

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

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

2.252 CONTRACTOR SYSTEM TESTING

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

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

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

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

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

2.253 APPROVAL OF DELIVERABLES, IN GENERAL

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

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

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

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

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

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

2.254 PROCESS FOR APPROVAL OF WRITTEN DELIVERABLES

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that shall be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

2.255 PROCESS FOR APPROVAL OF CUSTOM SOFTWARE DELIVERABLES

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

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

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

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

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

2.256 FINAL ACCEPTANCE

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

2.260 Ownership

2.261 OWNERSHIP OF WORK PRODUCT BY STATE

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

2.262 VESTING OF RIGHTS

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

2.263 RIGHTS IN DATA

The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 OWNERSHIP OF MATERIALS

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

2.270 State Standards

2.271 EXISTING TECHNOLOGY STANDARDS

The Contractor must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://www.michigan.gov/dmb/0,4568,7-150-56355-108233--,00.html.

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://michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html.

All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.273 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.

2.274 ELECTRONIC RECEIPT PROCESSING STANDARD

All electronic commerce applications that allow for electronic receipt of credit/debit card and electronic check (ACH) transactions must be processed via the Centralized Electronic Payment Authorization System (CEPAS).

2.280 Extended Purchasing Program

2.281 RESERVED

2.290 Environmental Provision

2.291 ENVIRONMENTAL PROVISION

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

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

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

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

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

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

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

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

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

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

2.300 Deliverables

2.301 SOFTWARE

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

2.302 RESERVED

2.310 Software Warranties

2.311 PERFORMANCE WARRANTY

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of (120) one hundred-twenty days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

2.312 NO SURREPTITIOUS CODE WARRANTY

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

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

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

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

2.313 CALENDAR WARRANTY

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

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.314 THIRD-PARTY SOFTWARE WARRANTY

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

2.315 PHYSICAL MEDIA WARRANTY

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

2.320 Software Licensing

2.321 CROSS-LICENSE, DELIVERABLES ONLY, LICENSE TO CONTRACTOR

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

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

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

2.323 LICENSE BACK TO THE STATE

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

2.324 LICENSE RETAINED BY CONTRACTOR

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

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

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

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

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

2.325 PRE-EXISTING MATERIALS FOR CUSTOM SOFTWARE DELIVERABLES

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

2.330 Source Code Escrow

2.331 DEFINITION

"Source Code Escrow Package" shall mean:

(a) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;

(b) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or

(c) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

2.332 DELIVERY OF SOURCE CODE INTO ESCROW

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

2.333 DELIVERY OF NEW SOURCE CODE INTO ESCROW

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

2.334 VERIFICATION

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

2.335 ESCROW FEES

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

2.336 RELEASE EVENTS

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

(a) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;

(b) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;

(c) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

2.337 RELEASE EVENT PROCEDURES

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

(a) The State shall comply with all procedures in the Escrow Contract;

(b) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;

(c) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

2.338 LICENSE

Upon release from the Escrow Agent pursuant to an event described in this **Section**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support,

update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

2.339 DERIVATIVE WORKS

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

Appendix C Glossary

Days	Means calendar days unless otherwise specified.
24x7x365	Means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
Additional Service	Means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Audit Period	See Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DTMB	Michigan Department of Technology, Management and Budget
Environmentally preferable products	A product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those that contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.
Excusable Failure	See Section 2.244.
Hazardous material	Any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).
Incident	Any interruption in Services.
ITB	A generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
New Work	Any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Ozone-depleting substance	Any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydro chlorofluorocarbons
Post-Consumer Waste	Any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.
Post-Industrial Waste	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Recycling	The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.
Reuse	Using a product or component of municipal solid waste in its original form more than once.
RFP	Request for Proposal designed to solicit proposals for services
Services	Any function performed for the benefit of the State.

Source reduction	Any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.
State Location	Any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
Subcontractor	A company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
Unauthorized Removal	Contractor's removal of Key Personnel without the prior written consent of the State.
Waste prevention	Source reduction and reuse, but not recycling.
Waste reduction and Pollution prevention	The practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.
Work in Progress	A Deliverable that has been partially prepared, but has not been presented to the State for Approval.
Work Product	Refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

Cost Tables Template Contractor Instructions:

The Contractor must complete the Project Cost summary and all associated tables identified. Identify all information related, directly or indirectly, to the Contractor's proposed charges for services and deliverables including, but not limited to, costs, fees, prices, rates, bonuses, discounts, rebates, or the identification of free services, labor or materials.

Optional Bid Items

This bid contains items which are marked as optional. The contractor shall bid these items but the State reserves the right to include or exclude optional items in the contract award.

Assumptions

1. The State assumes the Contractor will structure the project using the agile methodology in eight (8) releases with each release comprised of six (6) sprints. See Article 1 Section 1.301 PROJECT PLAN MANAGEMENT.
2. The State assumes the Contractor will perform development and implementation startup and planning activities as Sprint zero (0). The Contractor will clearly state in their response how initial project planning will be realized.
3. The State assumes other Sprints will have duration of ten (10) business days and will include planning and retrospective tasks. The Contractor will clearly state in their response how releases and sprints will be organized.
4. The State assumes there will <u>not</u> be any license costs.
5. The State assumes the tasks associated with interfaces, and integrations are not release dependent and will be completed as needed in parallel with other development tasks.
6. The State assumes warranty is included as part of the bid price.

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

Table 1: Summary of the Project Costs[1]

	Project Costs	Cost	Comments
A	**Planning** Breakdown provided in Table 2	$490,895	Milestone Acceptance:
B	**Development** Breakdown provided in Table 3	$2,454,456 8 payments of $306,807 each	Milestone Acceptance: Release 1: Release 2: Release 3: Release 4: Release 5: Release 6: Release 7: Release 8:
C	**Interfaces & Integration** Breakdown provided in Table 4	$736,338	Milestone Acceptance:
D	**Implementation** Breakdown provided in Table 5	$1,227,230	Milestone Acceptance:
E	**Future Enhancements / Rate Card** Breakdown provided in Table 6	$579,000	
	Total Cost	**$5,487,919**	

The State expects the costs in table 1 to reflect the effort required to complete the tasks assigned to the deliverable. Proposals which seek to skew pricing in an attempt to front load payments may be deemed non-responsive. The expectation is costs will generally agree to the following standard.

A. Not to exceed 5% of TPC

B. Not to exceed 50% of TPC

C. Not to exceed 5% of TPC

D. Not to exceed 25% of TPC

E. Not to exceed 5% of TPC

Total Project Costs (TPC) is defined as the sum of rows A – D.

[1] The contractor shall, after completing tables 2-8 bring forward the totals in order to complete table 1.

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

Table 2: Planning Costs

#	Project Milestone	RFP	Cost
	Sprint 0 (Planning)		
	Activities	1.104 A	
2.0.01	Attend and present at Kick-off Meeting		
2.0.02	Requirements Analysis & Validation		
2.0.03	Scope validation		
2.0.04	Facilitate and attend Workgroup Meetings		
	Preliminary Document Deliverables	1.104 A	
2.0.05	Project Schedule		
2.0.06	Project Scope Management Plan		
2.0.07	Project Plan		
2.0.08	Test Plan (SEM-0602)		
2.0.09	Security Assessment		
2.0.11	Interface Plan		
2.0.12	Integration Plan		
2.0.13	Requirements Trace-ability Matrix (SEM-0401)		
2.0.14	Product roadmap		
	Updated Document Deliverables	1.104 A	
2.0.15	Training Plan (SEM-0703)		
2.0.16	Enterprise Solution Assessment		
A	**Planning Costs Total**		$490,895.00

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

Table 3: Development Costs

#	Project Milestone	RFP	Cost
	Release 1 - 5 Sprints		
	Activities	1.104 A	
3.1.01	Sprint planning		
3.1.02	Analysis, Design, Build		
3.1.03	Retrospective		
	Updated Document Deliverables	1.104 A	
3.1.04	Backlog		
3.1.06	Software Configuration Plan (SEM-0302)		
3.1.07	Requirements Traceability (SEM-0401)		
3.1.08	Requirements Specifications (SEM-0402)		
3.1.09	Functional Design (SEM-0501)		
3.1.10	System Design (SEM-0604)		
	Release 1 - 5 Sprints Subtotal		**$1,534,035.00**
	Release 6 Sprints[2]		
	Activities	1.104 A	
3.8.01	Sprint planning		
3.8.02	Analysis, Design, Build		
3.8.03	Retrospective		
	Updated Document Deliverables	1.104 A	
3.8.04	Backlog		
3.8.06	Software Configuration Plan (SEM-0302)		
3.8.07	Requirements Traceability (SEM-0401)		
3.8.08	Requirements Specifications (SEM-0402)		
3.8.09	Functional Design (SEM-0501)		
3.8.10	System Design (SEM-0604)		
	Release 6 Sprints Subtotal		**$306,807.00**

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

	Release 7 Sprints[2]		
	Activities	1.104 A	
3.7.01	Sprint planning		
3.7.02	Analysis, Design, Build		
3.7.03	Retrospective		
	Updated Document Deliverables	1.104 A	
3.7.04	Backlog		
3.7.06	Software Configuration Plan (SEM-0302)		
3.7.07	Requirements Traceability (SEM-0401)		
3.7.08	Requirements Specifications (SEM-0402)		
3.7.09	Functional Design (SEM-0501)		
3.7.10	System Design (SEM-0604)		
	Release 7 Sprints Subtotal		**$306,807.00**
	Release 8 Sprints[2]		
	Activities	1.104 A	
3.8.01	Sprint planning		
3.8.02	Analysis, Design, Build		
3.8.03	Retrospective		
	Updated Document Deliverables	1.104 A	
3.8.04	Backlog		
3.8.06	Software Configuration Plan (SEM-0302)		
3.8.07	Requirements Traceability (SEM-0401)		
3.8.08	Requirements Specifications (SEM-0402)		
3.8.09	Functional Design (SEM-0501)		
3.8.10	System Design (SEM-0604)		
	Release 8 Sprints Subtotal		**$306,807.00**
B	**Development Costs Total**		**$2,454,456.00**

[2] Optional Release – the State may elect to not pursue this release and associated functionality to meet budget targets. See Article 1, section 1.300 Project Plan, Exhibit 4, and Appendix B.

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

Table 4: Interfaces & Integration Costs

#	Project Milestone	RFP	Cost
	Interfaces		
	Activities	1.104 D.3	
4.01	DEQ Environmental Mapper		
4.02	SIGMA Accounting		
4.03	Microsoft Dynamics NAV Accounting		
4.04	HP Records Manager Doc Management		
	Integration		
4.05	Site Registry Data-mart		
4.06	MICAM		
C	**Interfaces / Integration Costs Total**		**$736,338.00**

Table 5: Implementation

#	Project Milestone	RFP	Cost
	Testing[3]		
	Activities	1.104 D.5	
6.01	Perform System Testing		
6.02	Perform Performance Testing		
6.03	Perform User Acceptance Testing		
6.04	Perform Integration Testing		
6.05	Facilitate and attend Workgroup Meetings		
6.06	Identify, Document, and Manage Defects		
	Preliminary Document Deliverables	1.104 D.1	
6.07	End User Training Guides		
6.08	Administration Training Guides		
6.09	Technical Training Guides		
	Updated Document Deliverables	1.104 D.1	
6.10	Project Plan		
6.11	Implementation Plan		
	Updated/Final Document Deliverables	1.104 D.1	

[3] Unit testing will be on going but there will two (2) rounds of formal user acceptance testing (UAT). See Article 1, section 1.300 Project Plan.

APPENDIX A
Remediation Information Data Exchange (RIDE)
COST TABLES

Contractor Name: LOCHBRIDGE

6.12	Test Plan (SEM-0602)		
6.13	Test Scripts (SEM-0606)		
	Testing Costs Subtotal		**$613,615.00**
	Training and Documentation[4]		
	Activities	1.104 E	
6.14	Train End Users		
6.15	Train Administrators		
6.16	Train Technicians		
6.17	Facilitate and attend Workgroup Meetings		
6.18	Identify, Document, and Manage Defects		
	Updated Document Deliverables	1.104 E	
6.19	Project Plan		
	Final Document Deliverables	1.104 E	
6.20	Training Plan (SEM-0703)		
6.21	End User Training Guides		
6.22	Administrator Training Guides		
6.23	Technical Training Guides		
	Training Costs Subtotal		**$306,807.00**
	Installations to QA[5]		
	Activities		
6.24	Create Software Installation Packages		
6.25	Facilitate and attend Workgroup Meetings		
6.26	Identify, Document, and Manage Defects		
	Update Document Deliverables		
6.27	Project Plan		
6.28	Transition Plan (SEM-0701)		
6.30	Implementation Plan		
6.31	Installation Plan		
6.32	Security Assessment		
	QA Installation Costs Subtotal		**$184,084.00**
	Deployment to Production[6]		
	Activities		
6.33	Create Software Installation Packages		

[4] Training will occur at the conclusion of user acceptance testing.
[5] All user acceptance testing will occur from the State QA environment.
[6] Assume a duration of no less than three weeks

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6.34	Facilitate and attend Workgroup Meetings		
6.35	Identify, Document, and Manage Defects		
	Final Document Deliverables		
6.36	Project Plan		
6.37	Transition Plan (SEM-0701)		
6.39	Implementation Plan		
6.40	Installation Plan		
6.41	Security Assessment		
	Production Installation Costs Subtotal		**$122,724.00**
D	**Implementation Costs Total**		**$1,227,230.00**

Table 6: Future Enhancements / Rate Card Estimate

#	Staffing Category	Key Staff	Firm Fixed Hourly Rate	Est. Hours (5 year total)	Extended Price
8.01	Project Manager	☑	$135.00	600	$81,000.00
8.02	Business Analyst	☑	$110.00	800	$88,000.00
8.03	Senior Software Engineer	☑	$110.00	800	$88,000.00
8.04	System Architect	☑	$120.00	800	$96,000.00
8.05	Training Manager	☑	$125.00	400	$50,000.00
8.06	Test Manager	☑	$120.00	800	$96,000.00
8.07	Programmer		$100.00	800	$80,000.00
8.08	Other(s)		$0.00	0	0
E	**Future Enhancement / Rate Card Estimated Total**				**$579,000.00**

Future Enhancements / Rate Card Notes:

1. Hourly rates quoted are firm, fixed rates for the duration of the contract. Travel and other expenses will not be reimbursed. "Estimated Hours" and "Extended Price" are non-binding and will be used at the State's discretion to determine best value to the State. The State will utilize the fully loaded hourly rates detailed above for each staff that will be used as fixed rates for responses to separate statements of work.

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2. The State intends to establish funding for up to five thousand (5,000) hours over the five year life of the application for development. Actual funding for enhancements will occur on a yearly basis, and there is no guarantee as to the level of funding, if any, available to the project.

3. Unless otherwise agreed by the parties, each Statement of Work will include:

   - Background
   - Project Objective
   - Scope of Work
   - Deliverables
   - Acceptance Criteria
   - Project Control and Reports
   - Specific Department Standards
   - Payment Schedule
   - Project Contacts
   - Agency Responsibilities and Assumptions
   - Location of Where the Work is to be Performed
   - Expected Contractor Work Hours and Conditions

4. The parties agree that the Services/Deliverables to be rendered by Contractor using the future enhancements/rate card on this Contract will be defined and described in detail in separate Statements of Work. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a purchase order issued against this Contract.