

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

August 12, 2009

NOTICE
 OF
 CONTRACT NO. 071B9200262
 between
 THE STATE OF MICHIGAN
 and

| | | |
|---|----------------------------|---|
| NAME & ADDRESS OF CONTRACTOR Motorola, Inc. dba Motorola Communications & Electronics, Inc. 1301 East Algonquin Road Schaumburg, IL 60196 Email: gordon.webb@motorola.com | | TELEPHONE Gordon Webb (517) 857-3796 |
| | | VENDOR NUMBER/MAIL CODE |
| | | BUYER/CA (517) 241-3215 Steve Motz |
| Contract Compliance Inspector: Patty Bogard Motorola Radio Communication Equipment, Software and Services - MDIT/MPSCS | | |
| CONTRACT PERIOD: 2 yrs From: July 27, 2009 To: July 26, 2011 | | |
| TERMS N/A | SHIPMENT N/A | |
| F.O.B. N/A | SHIPPED FROM N/A | |
| MINIMUM DELIVERY REQUIREMENTS N/A | | |
| MISCELLANEOUS INFORMATION: Estimated Contract Value: \$17,758,250.89 | | |

THIS CONTRACT IS EXTENDED TO ALL LOCAL UNITS OF GOVERNMENT

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THIS IS NOT AN ORDER: The terms and conditions of this contract are enclosed.

FOR THE CONTRACTOR:

Motorola, Inc.

 Firm Name

Authorized Agent Signature
Jack Molloy

 Authorized Agent (Print or Type)

 Date

FOR THE STATE:

 Signature
Greg Faremouth, IT Division Director

 Name/Title
IT Division

 Division

 Date



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DEFINITIONS

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| 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). |
| Acceptance Test | Means those tests described in the Acceptance Test Plan. |
| 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 |
| DDP | Detailed Design Plan |
| DMB | Michigan Department of 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. |
| Equipment | Means the equipment that the State purchases from Motorola under this Contract. Equipment that is part of the System is described in the Future Statements of Work. |
| 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. |
| Motorola Software | Means Software that Motorola or its affiliated company owns. |
| 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. |
| Non-Motorola Software | Means Software that another party owns. |
| Open Source Software | Open Source Software (also called “freeware” or “shareware”) means software that has its underlying source code freely available to evaluate, copy, and modify. |
| 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. |



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| Proprietary Rights | Means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party |
| Recycling | The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production. |
| Deleted – Not Applicable | Section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering. |
| Reuse | Using a product or component of municipal solid waste in its original form more than once. |
| RFP | Request for Proposal designed to solicit proposals for services |
| Services | Any function performed for the benefit of the State. |
| Software | Means the Motorola Software and Non-Motorola Software, in object code format that is furnished with the System or Equipment. |
| 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. |
| Subsystem | Means a major part of the System that performs specific functions or operations. Subsystems are described in the Future Statements of Work. |
| Subscriber | A mobile or portable device that is used on a radio system. |
| System | Means the Equipment, Software, and incidental hardware and materials that are combined together into an integrated system; the System is described in the Future Statements of Work. |
| System Acceptance | Means the Acceptance Tests have been successfully completed |
| 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 and in furtherance of performing the services required by this Contract. |



Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 Project Request

The scope of this Statement of Work is to enable the procurement of radio communications equipment, software, and services for use by the State of Michigan in conjunction with the MPSCS as well as specific MPSCS related projects that are further defined as applicable in future Statements of Work.

1.002 Background

In 1994, the Department of Michigan State Police (MSP) initiated an rfp to solicit bids for an 800 MHz Radio System and Telecommunications Backbone Network Project and after the evaluation process was completed the contract was awarded to Motorola. This was available to other State Agencies. The contract term was 12-8-94 through 6-8-09.

With the formation of Michigan Department of Information Technology, this contract was transferred to the Michigan Public Safety Communications System.

In order to renew this contract a Proprietary Solicitation was listed on the DMB bid website and since no responses were received it resulted in preparing a new contract document to Motorola to replace the expired contract # 071B5000240.

The new contract will provide state agencies and local units of government a means to purchase radio communication equipment, software, and related services to support subscribers and MDIT radio communications infrastructure projects.

1.100 Scope of Work and Deliverables

1.101 In Scope

The scope is to provide equipment, both subscriber and infrastructure, as well as any services, for use by the State of Michigan in conjunction with the MPSCS as well as specific MPSCS related projects that are further defined as applicable in future Statements of Work.

1.102 Out Of Scope

The development of custom deliverable software is out of scope.

1.103 Environment

The links below provide information on the State's Enterprise IT policies, standards and procedures which includes security policy and procedures, IT strategic plan, 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 through this contract must comply with all applicable State IT policies and standards. The Contractor awarded the contract must request any exception to State IT policies and standards in accordance with MDIT processes. The State may deny the exception request or seek a policy or standards exception.

Contractor is required to review all applicable links provided below and state compliance in their response.

Enterprise IT Policies, Standards and Procedures:

<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>



All software and hardware items provided by the Contractor must run on and be compatible with the MDIT 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 MDIT. 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 State's Project Manager and MDIT 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 MDIT, before work may proceed based on the changed environment.

Enterprise IT Security Policy and Procedures:

<http://www.michigan.gov/dit/0,1607,7-139-34305-108216--,00.html>

The State's security environment includes:

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

IT Strategic Plan:

<http://www.michigan.gov/dit/0,1607,7-139-30637-135173--,00.html>

IT eMichigan Web Development Standard Tools:

http://www.michigan.gov/documents/Look_and_Feel_Standards_2006_v3_166408_7.pdf

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>

1.104 Work And Deliverable

I. Services (work) To Be Provided and Deliverables -

The Contractor will provide the radio communications equipment, software, and services described in Exhibit E for use by the State of Michigan in conjunction with the MPSCS as well as specific MPSCS related projects that are further defined as applicable in future Statements of Work.

Subject to the terms and conditions set forth herein, Motorola will engineer, provide, deliver, install, test, maintain, and document the MPSCS Trunked Radio System and Telecommunications Backbone Network for the State as described in future statements of work. The System as provided shall, consist of certain Towers, Shelters, equipment and generator rooms, and dispatch centers, all equipped with requisite support systems, (e.g. HVAC, generator set, transfer switch, fire suppression system, secondary AC power distribution, cable trays, lighting, lightning protection interior and exterior, and interior equipment layout with cable and RF transmission lines). The System shall furthermore consist of the equipment, including Hardware and certain Software embodied in or associated with such Hardware. Motorola shall be responsible for all construction, and building renovation at all Sites required as part of the System installation as described in future Statement of Work.

Except as otherwise provided herein, Motorola shall provide everything necessary for the performance of its obligations under this Contract, including but not limited to, System design, supervision, labor, materials, tools, supplies, programming equipment, test equipment, and all incidental services to complete the work in a professional, workmanship like manner.



The State shall be responsible for the coordination of the State's resources to assist Motorola with the tasks defined in the future Statement of Work.

A. Installation and Delivery Dates

- Motorola shall be responsible for furnishing, fabricating, delivering, unloading, installing, programming, setting into operation and testing all System equipment at the Site(s). The work shall be performed in accordance with future statements of work.

B. RESERVED - Liquidated Damages

II. Requirements

A) Transportation / Delivery

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

- (a) SHIPMENT RESPONSIBILITIES - Services performed under this contract shall be delivered "F.O.B. Destination, within Government Premises."
- (b) DELIVERY LOCATIONS - Specific locations will be provided by the State or upon issuance of individual purchase orders.

FOB Destination as used in this contract: The term FOB destination shall mean delivered and accepted at an identified agency destination-receiving site, with all charges for transportation paid by the Contractor. These charges are to be built into the price of each item.

- Cost for shipments to Site(s) specified by the State shall be Motorola's responsibility.
- Transportation charges for the shipment of empty packing cases shall be paid by Motorola.
- Motorola shall bear the cost of transportation when the Hardware and/or Software is replaced at Motorola's request.

BAR-CODING

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

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

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

PACKING SLIP

Contractor shall provide a printed packing slip, and if requested an electronic packing slip for each physical shipment. The packing slip shall display:

- a. State of Michigan, Purchase Order Number or MIDEAL P.O. as appropriate
- b. Purchaser's Name (Contact Name)
- c. Ship to address
- d. Special Shipping information (time frames, delivery information etc).
- e. Order Date
- f. Shipped from (Vendor) information
- g. Shipping Carriers Name
- h. Carriers Tracking Number
- i. Date Shipped
- j. Total Number of Packages



- k. Serial Number if applicable
- l. Item / Part Number
- m. Line item description from the Purchase Order
- n. Quantity ordered
- o. Quantity included in shipment and whether Contractor considers the delivered item to be a partial or full satisfaction of the requirement

RFID TAGS

If the State determines to utilize Radio-frequency identification (RFID) Tags, the Contractor and the State will define the RFID tagging process to meet the specifications.

If the State requires RFID Tags, the manufacturers will present its cost of the solution to the State. The Contractor will recommend a tagging solution to meet the State's needs.

B) Installation

- The State shall pay only those rigging and drayage costs as indicated in Exhibit E.
- Supervision of installation of Hardware and/or Software shall be furnished by Motorola in accordance with the administrative charges set forth in Exhibit E. No additional supervision charges shall be allowed unless authorized by the State in a Contract Change Notice.

C) Relocation

- System Hardware and Software provided under this Contract shall be installed only once by Motorola, subject to the following exceptions:
 - Removals and installation because of Hardware and Software failure or malfunction during the warranty period.
 - Removals and installations to facilitate troubleshooting and malfunction investigation during the warranty period.
 - Removals and installation to upgrade Hardware and Software during the warranty period.
 - Removals and installation because of System design failure during the warranty period.
- Prior to installation of any System Hardware and Software under this Contract, the State reserves the right to move the Hardware and/or Software from the designated Site to any other designated Site, provided the relocation Site conforms to Motorola's original System design criteria and the State shall reimburse Motorola for any additional costs incurred, utilizing the change management process defined in Article 1, Section 1.403 of this Contract.
- Rearrangement of Hardware and/or Software after the initial installation within the same office for State convenience shall be at the State's expense.

D) Risk of Loss or Damage and Title Transfer

- All risks of loss and damage to the System and its component Hardware and/or Software transfers to the State upon delivery to the State.
- Title to the Hardware and accessories purchased under this Contract shall pass to the State upon delivery and inventory by the State of the System equipment at the Site(s). Title to Software does not pass to the State under any circumstances.

E) Risk of Loss or Damage and Title Transfer

- Prior to the start of the System implementation for each phase, the State Project Director shall issue to Motorola a written Notice to Proceed (NTP). This NTP shall initiate the Detailed Design Review process. Upon completion of the Detailed Design Review process, a Detailed Design Plan shall be published by Motorola and signed by the State Project Director and the Motorola Project Director.
- The State Project Director will issue Contract Releases in the form of Purchase Orders as it's written authorization for the installation and implementation of the System. Purchase Orders issued by the



State shall specifically reference this Contract and only the terms of this Contract shall govern. The Purchase Orders shall particularly describe the System, equipment, services, and amount of payment on a per Site basis, in accordance with Exhibit E and will have as an attachment the Detailed Design Plan, if applicable. Purchase Orders will serve as the authority for Motorola to manufacture, construct, implement, and invoice for the System components described therein.

F) Subscriber Unit Ordering

- A Contract Release for subscriber units (See Exhibit E) will be issued by the State.

G) Licenses/Authorizations

- The State is solely responsible for executing, filing and obtaining licenses required by the Federal Communication Commission (FCC). The State and Motorola shall comply with FCC rules. Neither Motorola nor any of its employees is an agent or representative of the State in FCC matters or otherwise. Motorola, however, shall be responsible for the proper preparation of the FCC license form(s) (including all attachments, waivers, other authorizations, exhibits, and supporting documentation) and delivery to the State, for the State's execution and filing. Motorola shall prepare the FCC license application form(s) at no charge to the State. The State acknowledges that any purchase made pursuant to this Contract is predicated on receipt of proper FCC licensing.

H) Equipment Compatibility

- Motorola agrees that the Hardware and/or Software, together with any and all associated equipment it will provide, as otherwise specified in the Contract and described in the appropriate Detailed Design Plan (DDP) will perform individually and as an integrated System in accordance with the specifications and representations stated in this Contract. This Contract does not extend to the performance or integration of the System equipment into a different system generally nor specifically to System equipment in combination with products, elements or components not supplied by Motorola.
- During the performance of this project, it is understood that Motorola may implement changes in the products set forth in this Contract or substitute products of more recent design. This shall be allowed provided that any such changes, modifications and substitutions, under normal use shall not materially or adversely affect physical or functional interchangeability or performance, or result in price changes except where there is prior written agreement between the Parties that specific characteristics will be so affected and/or price so affected.

I) Software Agreement and Warranty

- Motorola shall, in the course of the transaction for the items of equipment identified in the Contract, deliver to the State, on a licensed basis, one or more computer programs (Product Program). Delivery of all Product Programs by Motorola and Acceptance of same by the State shall be made under the terms and conditions in the attached Motorola Software License Agreement, Exhibit F. The terms and conditions of the Software Agreement contained in Exhibit F shall survive the completion of the Contract.

J) Approved Equals

- Specific reference in this Contract to any articles, device, equipment, materials, fixture, form or type of construction, etc. by name, make, or catalog number, with words "or approved equal", shall be interpreted as establishing a standard of quality. Motorola in such cases may, at its option, use articles, devices, equipment, material, fixtures, forms or types of construction which, in the judgment of the State expressed in writing, is equal to that named. In cases involving the approval of substitutes, the opinion, judgment and decision of the State shall be final and bind all Parties.
- Motorola will submit requests to substitute System equipment in writing to the State Project Director, or designee. Requests shall be accompanied by samples, descriptive literature, and engineering information as necessary to fully identify and allow appraisal of the substitute request.
- Approval by the State to substitute System equipment will be in the form of a written authorization by the State's Project Director. Approved substitutions may be used at Motorola's option.



- Motorola shall bear the risk of any additional direct costs or delays that may be incurred as a result of its use of substitute equipment, regardless of whether the State approved the substitution requested by Motorola, unless mutually agreed to by both Parties.

K) MIDEAL - Extended Purchasing

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

In such cases, contract vendors supply merchandise at the established State of Michigan contract prices and terms. Inasmuch as these are non-state agencies, all purchase orders will be submitted by, and invoices will be billed to, the authorized MIDEAL member who will remit payment on a direct and individual basis in accordance with contract terms will remit payment.

Contractor will provide commodities and/or services to authorized MIDEAL Program members in accordance with the prices quoted in Exhibit E for Local Users.

1.200 Roles and Responsibilities

1.201 Contractor Staff, Roles, And Responsibilities

A. Contractor Staff

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

SPOC Name: Gordon Webb, Senior Account Manger

- supporting the management of the Contract,
- facilitating dispute resolution, and
- advising the State of performance under the terms and conditions of the Contract.

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

If requested by the State, the Contractor will provide an organizational chart indicating lines of authority for personnel involved in performance of this Contract. 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.

All Key Personnel shall be subject to the State's interview and approval process. Any key staff substitution must have the prior approval of the State. The State has identified the following as key personnel for future defined projects that require a Statement of Work:

- *Project Manager*



The Contractor will provide a Project Manager to interact with the designated personnel from the State to insure a smooth transition to the new system. The project manager/technical lead 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/technical lead responsibilities include, at a minimum:

- Manage all defined Contractor responsibilities in this Scope of Services.
- Manage Contractor's subcontractors, if any
- 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
- Manage and report on the project's budget

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

B. Contractor Roles and Responsibilities

- Motorola shall be responsible for maintaining a tranquil working relationship between the Motorola work force, their subcontractor and their work force, State employees, and other construction contractors present at the work site. The State shall be responsible for maintaining a tranquil working relationship between the State's work force, their subcontractor and their work force, Motorola employees and other construction contractors at the work site. Labor disputes which result from Motorola's employees presence on the work site, or other action under the control of Motorola shall be quickly resolved by Motorola. Labor disputes by the work force of Motorola shall not be deemed sufficient cause to any claim by Motorola for additional compensation for loss or damage nor shall disputes be deemed sufficient reason to relieve Motorola from any of his/her obligations under the Contract.
- The installation of the specified System shall be accomplished by Motorola with minimum disruption or interruption to the State's normal business operation at the Sites.
- The Hardware and/or Software contracted for by the State hereunder, shall be delivered to its proper location and installed by Motorola without additional cost or expense to the State. The State shall not be deemed to have accepted any component or piece of Hardware and/or Software until such time as said Hardware and/or Software has been installed, is operating in accordance with the specifications and is accepted by the State.
- Prior to delivery of Hardware and/or Software contracted for by the State hereunder, Motorola shall be responsible for destruction or damage of such Hardware and/or Software while in transit. In the event destruction or damage occurs to such Hardware and/or Software, Motorola shall replace or repair such Hardware and/or Software without additional cost or expense to the State to the extent that such destruction or damage is caused by the fault or negligence of Motorola.
- Where penetration of any fire or smoke barrier is necessary, barriers shall be restored by approved method as specified in the National Fire Protection Association (NFPA) codes, National Building Codes, and State fire codes.
- Motorola shall obtain written permission from the State Project manager before proceeding with any work requiring cutting into or through any part of the building structure as girders, beams, concrete, or tile floors. This includes, but is not limited to, any part of the building structure where the fireproofing or moisture barrier may be impaired.
- Motorola shall exercise reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any site. Motorola shall promptly report any damage, regardless of cause, to the State.



- Motorola shall ensure that required fire fighting apparatus is accessible at all times and that his/her employees are trained in its use. The use and/or storage at the Site of flammable, explosive and/or toxic components including (but not limited to) gasoline, benzene, alcohol, naphtha, carbon tetrachloride or turpentine for cleaning any of the Hardware on the State's premises is prohibited.
- Motorola shall keep itself fully informed of all applicable Federal and State laws; applicable regulations pertaining to the Occupational Safety and Health Act (OSHA); all applicable local ordinances and regulations; and all applicable orders and decrees of bodies and tribunals having any jurisdiction or authority, which in any manner affect the conduct of the work. Motorola shall, at all times, observe and comply with all applicable ordinance regulations, laws, orders and decrees, pay for all required construction permits, and shall protect and indemnify the State and its representatives against all adjudged claims and liabilities arising from or based on violations committed by Motorola's employees or subcontractors.
- Motorola shall remove all debris generated by Motorola or its subcontractors, and remove surplus material, tools and construction equipment, in accordance with future statements of work. Motorola shall leave the site, including any roadways to and from the site, in a satisfactory and usable condition.
- To the extent that Hazardous Materials are unexpectedly encountered, by Motorola, it shall respond pursuant to the terms of Section 2.291.
- Motorola shall use, handle, store, dispose of, process, transport and transfer any material or substance considered a Hazardous Material, in accordance with federal and State Laws. If Motorola encounters any material reasonably believed to be a Hazardous Material and which may present a substantial danger, Motorola shall (a) immediately stop all affected work, (b) give written notice to the State of the conditions encountered, and (c) take appropriate health and safety precautions.
- When applicable, in accordance with future Statements of Work, Motorola shall comply with the requirements of 1974 P. A. 53, MCL 460.701 et seq. governing construction and demolition activities near public utilities and all other laws concerning underground utilities. In addition Motorola shall be responsible for immediately notifying the State of any contact with or damage to, underground utilities, unless, the existence or location of said utilities vary from that indicated by Miss-Dig or by the State. Motorola shall be responsible for any delay and all costs relating to the obligations set forth in this paragraph. Access to the job site will be restricted to authorized personnel. All Motorola and subcontractor personnel shall be required to wear a project identification badge while on the job site.
- The State will consult with Motorola regarding approved methods of janitorial and maintenance services at the job site such that the least amount of dust, dirt, moisture, or gaseous chemical evaporation is created while meeting these service needs.
- Emergencies - In emergencies affecting the safety or protection of persons or the work or property at or adjacent to any Site, Motorola, without special instruction or authorization, is obligated to act or prevent threatened damage, death, injury or loss. Motorola shall give the state prompt written notice of any changes in the work resulting from the action taken. The State shall order the required changes in the work, and unless the emergency resulted from negligent acts or omissions within the control of Motorola, correspondingly adjust the Contract price or Contract time.
- Motorola shall provide for the construction and installation of, Towers, Shelters, and renovation of facilities as specified in future statements of work. The Shelters and Towers shall be designed and constructed in accordance with drawings and specifications approved by the State as provided in future statements of work.

C. On Site Work Requirements

1. Location of Work

The work is to be performed, completed, and managed at locations described in future Statement of Work.

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 or 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 will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.

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

1.202 State Staff, Roles, And Responsibilities

A. State Staff

The State project team will consist of Executive Subject Matter Experts (SME’s), project support, and a MDIT and Agency project manager:

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.

| Name | Agency/Division |
|-------------------|---|
| Brad Stoddard | Michigan Department of Information Technology |
| Theron Shinew | Michigan Department of Information Technology |
| Patrick Kenealy | Michigan Department of Information Technology |
| David O. Hayhurst | Michigan Department of Information Technology |

State Project Manager- (MDIT and Agency)

MDIT 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 State’s Project Manager 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 |
|---------------|-----------------|-----------------|
| Theron Shinew | MDIT | Project Manager |

MDIT shall provide a Contract Compliance Inspector whose duties shall include, but not be limited to, supporting the management of the Contract.

| Name | Agency/Division | Title |
|--------------|---------------------------------|-------------------------------------|
| Patty Bogard | MDIT/Bureau of Strategic Policy | Contract Compliance Inspector (CCI) |

B. State Roles and Responsibilities

Coincident with Motorola's performance of this Contract, the State shall, in addition to the responsibilities described in the Statement of Work included in future statements of work, perform the following tasks:

- Provide a designated State Project Manger.
- Provide a designated State Project Engineer.
- Provide a designated State Field Representative(s).
- Provide a designated Site Representative.
- Provide ingress and egress to the State's facilities and/or Sites as requested by Motorola and have such facilities available for installation of the Hardware.
- Appoint a Site Representative immediately upon execution of this Contract.
- The State shall provide primary AC power as specified in future statements of work.
- The State shall provide, in accordance with an agreed upon delivery and installation schedule, a designated work area with adequate heat and light, and security to facilitate dispatch and mobile installations.
- The State shall provide a suitable operating environment, safe storage, and power for the installation and operation of the System.
- The State shall keep areas provided for the System equipment installation, free from storage of combustible items, corrosive chemicals, or bulky items. Such areas will be virtually free from any use not associated with the operation of the System as specified in this Contract.

1.203 RESERVED - Other Roles And Responsibilities

1.300 Project Plan

1.301 Project Plan Management

Orientation Meeting

If requested by the State, 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 at the meeting.



Performance Review Meetings

The State may 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 MDIT.
2. Project plans for future statements of work must be in agreement with Article 1, Section 1.104 Work and Deliverables, and must include the following:
 - The Contractor's staffing table with names and title of key personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - The project work breakdown structure (WBS) showing sub-projects, activities and tasks, and resources required and allocated to each.
 - The time-phased plan in the form of a graphic display, showing each event, task, and decision point in the WBS.
3. The Contractor will manage the project in accordance with the State Unified Information Technology Environment (SUITE) methodology, which includes standards for project management, systems engineering, and associated forms and templates which is 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 plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed).
 - 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.
 - b. 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 State's Project Manager for approval within (10) business days after the execution of this 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.

Contractor shall provide the following reports on a monthly basis:

- Issues
- Maintenance Activity

The following reports may be required if the future statement of work includes implementation services:

- Weekly Project status
- Updated project plan
- Summary of activity during the report period
- Accomplishments during the report period
- Deliverable status
- Schedule status
- Action Item status
- Change Control
- Repair status



These reports can be modified when agreed to by both the State and Contractor.

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 State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

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

Issues shall be escalated for resolution from level 1 through level 3, as defined below:

Level 1 – Business leads

Level 2 – Project Managers

Level 3 – Executive Subject Matter Experts (SME's)

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 ten (10) 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 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.



If a proposed contract change is approved by the Agency, the Contract Administrator will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations 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 DMB Purchasing Operations, 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 migration 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

Acceptance of the Products will occur upon delivery to State unless a statement of work or acceptance test plan exists and provides for acceptance verification or testing, in which case acceptance of the Products will occur upon successful completion of the acceptance verification or testing. Notwithstanding the preceding sentence, State’s use of the Products for their operational purposes will constitute acceptance.

If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If State believes the System has failed the completed Acceptance Tests, State will provide to Motorola a written notice that includes the specific details of the failure. If State does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. “Beneficial Use” means when State first uses the System or a Subsystem for operational purposes (excluding training or testing). Upon commencement of Beneficial Use, State assumes responsibility for the use and operation of the System.

1.502 Final Acceptance

Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

1.600 Compensation and Payment

1.601 Compensation And Payment

[The Pricing for Products and Services is provided in Exhibit E. A summary of Exhibit E is provided below.](#)

STATE OF MICHIGAN SUBSCRIBER RADIO PRICING:

This includes consideration of previous payment for software licenses for State of Michigan Subscribers.

LOCAL AGENCY SUBSCRIBER RADIO PRICING:

This includes pricing for radio and all required software licenses for Local Agency Subscribers.

**PRODUCT CODE (APC) DISCOUNTS:**

Provides pricing discount for all other radio products and services not identified in the State of Michigan Subscriber Radio Pricing and Local Agency Subscriber Radio Pricing.

PORTABLE RADIO BATTERY PRICES:

This includes contract pricing for Subscriber Batteries.

CONTRACT PRICE. State will pay the Contract Price as correctly stated in an order when due in U.S. dollars.

INVOICING AND PAYMENT. Motorola will submit invoices to State for Products when they are shipped and for services, if applicable, when they are performed. State will make payments to Motorola within forty five (45) days after the receipt of the invoice. State will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate.

FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to State upon delivery. Title to Software will not pass to State at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the State at the Bill to Address indicated on the Purchase order, or determined in future statements of work

The city which is the ultimate destination where the Equipment will be delivered to State is:
To be indicated on the Purchase order, or determined in future statements of work.

The Equipment will be shipped to the State at the Ship to Address indicated on the Purchase order, or determined in future statements of work.

State may change this information by giving written notice to Motorola. Any Eligible Purchaser other than State will provide in writing to Motorola the information identified in this Section immediately upon becoming an Eligible Purchaser.

Method of Payment

The project will be paid utilizing in the pricing table provided as (Exhibit E).

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. Travel and Expenses
 10. Project Contacts
 11. Agency Responsibilities and Assumptions
 12. Location of Where the Work is to be performed
 13. 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 "Bill To" Address on Purchase Order. 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;
- Maintenance charges;
- Net invoice price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice price; and
- Payment terms, including any available prompt payment discount.

The State may pay maintenance and support charges on a monthly basis, in arrears. Payment of maintenance service/support of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

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

Payment Terms

- The State will pay Motorola and Motorola shall accept as full compensation, satisfaction and payment for said work and any direct or indirect costs or expenses incurred by Motorola in connection with said work including, but not limited to, cost of supervision, labor, tools, equipment, transportation, insurance, taxes, overhead and profit, the lump sum price for System components as set forth in its respective Contract Release(s). Such lump sum prices will be determined based upon the listing of equipment and services required as defined in future statements of work and the prices specified in Exhibit E.
- Motorola's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses such as Motorola's travel specifically requested by the State, the State has agreed in advance and in writing to reimburse Motorola for such an expense. Reimbursement for such unusual expenses shall be subject to State travel regulations and guidelines.
- The State will pay when due, all undisputed charges properly invoiced in accordance with the Contract, but may withhold payment of any particular charges that the State disputes in good faith. The State will notify Motorola in writing of any disputed charges under this Contract for which the State is withholding payment. Motorola may, with respect to such disputed charges, initiate the dispute resolution procedures set forth in Section 1.37 below within thirty (30) days after such notification by the State, in which case the matters in dispute will be resolved in accordance with such dispute resolution procedures.
- The State shall make all payments due under this Contract within forty-five (45) days after the invoice date.



- For all products, services, functions and items provided or to be provided by Motorola (and its approved subcontractors, if any) under this Contract, the State shall not be obligated to pay any amounts in addition to the charges payable to Motorola under this Contract unless such amounts are covered by a Contract Change Notice.

1.602 Holdback

The State shall have the right to hold back an amount equal to ten (10) percent, or the percent agreed upon by the Contractor and State in a future Statement of Work.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of Two (2) years beginning (**July 27, 2009**) through (**July 26, 2011**). All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

This Contract does not contain options to renew.

2.003 Legal Effect

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

2.006 Order of Precedence

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

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



2.007 Headings

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

2.008 Form, Function & Utility

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

2.009 Reformation and Severability

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

2.010 Consents and Approvals

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

2.011 No Waiver of Default

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

2.012 Survival

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

2.020 Contract Administration

2.021 Issuing Office

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

[Steve Motz](#)

Buyer

Purchasing Operations

Department of Management and Budget

Mason Bldg, 2nd Floor

PO Box 30026

Lansing, MI 48909

motzs@michigan.gov

517-241-3215



2.022 Contract Compliance Inspector

The Director of Purchasing Operations 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. Purchasing Operations is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contract Compliance Inspector for this Contract is:

Patty Bogard
MDIT Contract Office
Michigan Department of Information Technology
Constitution Hall, 1st Floor North
525 W. Allegan
Lansing, MI 48933
bogardp@michigan.gov
Phone: 517-335-4051

2.023 Project Manager

The following individual will oversee the project:

Theron Shinew
Michigan Department of Information Technology
shinewt@michigan.gov
(517) 336-6188

2.024 Change Requests

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

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

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

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



- (1) Change Request at State Request
If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").
- (2) Contractor Recommendation for Change Requests:
Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.
- (3) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.
- (4) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
- (5) No proposed Change must be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Purchasing Operations.
- (6) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

Procedures

Contractors Response to a Change Request.

- Within thirty (30) calendar days after receipt of a request by the State for any such change or such other period of time as the Parties may mutually agree to in writing, Motorola shall submit to the State a proposal describing any changes in products, functions, services, timing of delivery, assignment of personnel, and the like, and any associated price adjustment. Motorola's proposal shall describe in reasonable detail the basis for the proposed price adjustment, including the charges for any services, materials or products required to implement the change request.
- To the extent that additional cost or cost savings result from a change in required products and materials, Motorola shall obtain any additional products and materials and provide them to the State at: (A) the price set forth in Exhibit E in the case of Hardware and Software listed therein, or (B) in the case of products and materials not listed in Exhibit E, a negotiated price acceptable to both Parties. Similarly, if the change request is expected to result in a reduction in materials or products required to perform the services, Motorola's charges shall be reduced by the cost savings resulting from the materials or products eliminated by the change request, determined using the prices at which such materials or products were to have been provided to the State pursuant to Exhibit E.

State's Acceptance of Proposal

- If the State accepts Motorola's proposal, it will issue a Contract Change Notice referencing Motorola's proposal and it shall be signed by the Purchasing Director, Department of Management and Budget.



Motorola will not implement any change request until a valid Contract Change Notice has been issued by the State and accepted by an authorized representative of Motorola.

State's Rejection of Proposal

- If the State does not accept Motorola's proposal, the State may:
 - 1) withdraw its change request;
 - 2) modify its change request, in which case the procedures set forth above will apply to Motorola's response to the modified change request.

2.025 Notices

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

State:

State of Michigan
Purchasing Operations
Attention: Steve Motz
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor: Motorola, Inc.
Name: Gordon Webb, Senior Account Manger
Address: 228 Maple Street, Springport, MI 49284

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

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

2.029 Assignments

Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an



affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages. 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.

Contractor may, without the prior written approval of the State, assign its right to receive payments due under the Contract.

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 30 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

2.030 General Provisions

2.031 Media Releases

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

2.032 Contract Distribution

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

2.033 Permits

State will be responsible for obtaining all permits, approvals, and authorizations necessary for the sale, installation, and operation of State owned equipment. State will be solely responsible for obtaining all Federal Communications Commission ("FCC") licenses and for complying with FCC rules. Motorola may assist State, but in no event will Motorola or any of its employees be an agent or representative of the State in FCC matters.

2.034 Website Incorporation

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

2.035 Future Bidding Preclusion

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

2.036 Freedom of Information

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

2.037 Disaster Recovery



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

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

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

2.042 Adjustments for Reductions in Scope of Services/Deliverables

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

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General

- (a) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.
- (b) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.
- (c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt.
- (d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) will mutually agree upon. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 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 any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

2.046 Antitrust Assignment

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

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

2.050 Taxes**2.051 Employment Taxes**

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

2.052 Sales and Use Taxes

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

2.060 Contract Management**2.061 Contractor Personnel Qualifications**

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



2.062 Contractor Key Personnel

- (a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles 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. Motorola has the right to dispute the State's request. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location

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

2.065 Contractor Identification

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



2.066 Cooperation with Third Parties

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

2.067 Contract Management Responsibilities

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

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

2.068 Contractor Return of State Equipment/Resources

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

2.070 Subcontracting by Contractor

2.071 Contractor full Responsibility

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

2.072 State Consent to delegation

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



2.073 Subcontractor bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment

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

2.082 Facilities

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

2.090 Security

2.091 Background Checks

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



All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/dit>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.092 Security Breach Notification

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

2.093 PCI DATA Security Requirements

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

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

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

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

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

2.100 Confidentiality

2.101 Confidentiality

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



2.102 Protection and Destruction of Confidential Information

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

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

2.103 Exclusions

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

2.104 No Implied Rights

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

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

The State's authorized representatives must at all reasonable times and with 20 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 20 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.



Motorola acknowledges State's right to inspect materials, equipment and workmanship at Motorola's manufacturing or staging facilities for the limited purpose of evaluating Motorola's performance of this Agreement. Motorola will restrict inspection of its facilities to normal business hours, to areas that are relevant to the performance of the Contract, and to areas which Motorola does not consider confidential or proprietary in nature. A Motorola representative must accompany Customer's employees at all times.

2.112 Examination of Records

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

2.113 Retention of Records

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

2.114 Audit Resolution

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

2.115 Errors

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

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

2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.



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

2.122 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.



2.123 Equipment Warranty

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

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

Within thirty (30) business days of notification from the State, the Contractor must adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

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

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

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

2.124 Equipment to be New

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

2.125 Prohibited Products

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

2.126 Consequences for Breach

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

2.130 Insurance

2.131 Liability Insurance

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims that may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether the services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.



The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain under this Contract.

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

The insurance must be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

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

See www.michigan.gov/dleg.

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

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

- 1. Commercial General Liability with the following minimum coverage:
 \$2,000,000 General Aggregate Limit including Products/Completed Operations
 \$1,000,000 Personal & Advertising Injury Limit
 \$1,000,000 Each Occurrence Limit

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

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

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

- 3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

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



2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under this Contract to purchase and maintain similar insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **The Contract Number or the Purchase Order Number must be shown on the Certificate Of Insurance To Assure Correct Filing.** All Certificate(s) are to be prepared and submitted by the Insurance Agent. All Certificate(s) must contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and upon the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insured under each commercial general liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and must not be construed; to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

2.140 Indemnification

2.141 General Indemnification

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

2.142 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.



2.143 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 manufactured by the Contractor, 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, or trademark 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.

2.144 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.

2.145 Indemnification Procedures

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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

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



2.152 Termination for Cause

- (a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State
- (b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources, subject to Section 2.220.
- (c) If the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.
- (d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

2.153 Termination for Convenience

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

2.154 Termination for Non-Appropriation

- (a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State must terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.



2.155 Termination for Criminal Conviction

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

2.156 Termination for Approvals Rescinded

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

2.157 Rights and Obligations upon Termination

- (a) If the State terminates this Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.
- (b) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (c) Upon a good faith termination, the State further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 Reservation of Rights

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

2.160 Termination by Contractor

2.161 Termination by Contractor

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

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the



Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed **sixty** days. These efforts must include, but are not limited to, those listed in **Sections 2.141, 2.142, 2.143, 2.144, and 2.145**.

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

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

2.174 Contractor Software Transition

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

2.175 Transition Payments

If the transition results from a termination for any reason, 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 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.130**.

2.182 Cancellation or Expiration of Stop Work Order

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

2.183 Allowance of Contractor Costs

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

2.190 Dispute Resolution

2.191 In General

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

2.192 Informal Dispute Resolution

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

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



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

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

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

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

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

2.193 Injunctive Relief

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

2.194 Continued Performance

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

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

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

2.202 Unfair Labor Practices

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



2.203 Workplace Safety and Discriminatory Harassment

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

2.204 Prevailing Wage

The parties agree that prevailing wage will only apply to those specific projects identified in future statements of work.

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

The Contractor, its subcontractors, their subcontractors and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the wage rates and fringe benefits. You 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 must in all respects be governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

2.212 Compliance with Laws

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

2.213 Jurisdiction

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



2.220 Limitation of Liability

2.221 Limitation of Liability

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

The Contractor's liability for damages to the State is limited to the price of the Equipment, Software, or services with respect to which losses or damages are claimed. This limitation of liability does not apply to claims for infringement of United States patent, copyright, or trademark; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

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

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

- (a) the ability of Contractor (or a Subcontractor) to continue to perform this Contract according to its terms and conditions, or
- (b) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
 - (1) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
 - (2) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.
- (c) Contractor must make the following notifications in writing:
 - (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DMB Purchasing Operations.
 - (2) Contractor must also notify DMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
 - (3) Contractor must also notify DMB Purchase Operations within 30 days whenever changes to company affiliations occur.



2.232 Call Center Disclosure

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

2.233 Bankruptcy

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

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

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

2.240 Performance

2.241 Time of Performance

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

2.242 Service Level Agreement (SLA)

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



- (ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.
- (b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 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 RESERVED Liquidated Damages

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 RESERVED - Contractor System Testing for Custom Software Deliverables

Contractor will not provide Custom Software Deliverables through this Contract

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 as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. State will mitigate damages and provide Motorola with detailed invoices substantiating the charges; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

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

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

2.254 Process for Approval of Written Deliverables

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

RESERVED - Process for Approval of Custom Software Deliverables

Contractor will not provide Custom Software Deliverables through this Contract

2.256 Final Acceptance

See Section Article 1, Section 1.502

2.260 Ownership

2.261 PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS.

Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared



development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

2.262 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.

2.263 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

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

2.272 Acceptable Use Policy

The State acknowledges and understands that the Contractor will not have access to the State computer system.

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/pcpolicy>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.273 Systems Changes

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



2.280 Extended Purchasing

2.281 MiDEAL (Michigan Delivery Extended Agreements Locally)

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

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

THIS CONTRACT WILL BE MADE AVAILABLE TO ALL STATE OF MICHIGAN AGENCIES AND AUTHORIZED MIDEAL PURCHASING PROGRAM MEMBERS.

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

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

2.282 State Employee Purchases

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

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

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

2.290 Environmental Provision

2.291 Environmental Provision

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

Environmental Purchasing Policy: The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclables; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and



environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

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

- (a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State and local laws. The State must provide a safe and suitable environment for performance of Contractor's Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.
- (b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.
- (c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in a time as mutually agreed by the parties.
- (d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

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

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

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



2.300 Deliverables

2.301 Software

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

2.302 Hardware

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

2.303 Equipment to be New

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

2.304 Equipment to be New and Prohibited Products

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

2.310 Software Warranties

2.311 Performance Warranty

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

2.312 No Surreptitious Code Warranty

Provided that the State has made no modifications to the System without the knowledge and mutual agreement of both parties, the Contractor represents and warrants that no copy of licensed Motorola 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." If the State determines that the Motorola Software contains any Self-Help Code or Unauthorized Code in violation of the foregoing representation, the Contractor will immediately provide at its sole cost a clean copy of the Motorola Software and provide reasonably necessary assistance to the State to correct problems caused by the Self-Help Code or Unauthorized Code.



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 where technically feasible remove viruses that are detectable by commercially available anti-malware solutions from Motorola 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.

2.312 Third-party Software Warranty

Unless otherwise stated in Motorola's Software License Agreement, 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

Unless otherwise stated in Motorola's Software License Agreement, the 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 RESERVED - Cross-License, Deliverables Only, License to Contractor

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

2.323 RESERVED - License Back to the State

2.324 License Retained by Contractor

Subject to the provisions of Motorola’s Software License Agreement (Exhibit F) and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable and non-exclusive license under Motorola’s copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee’s use of the Designated Products. This Agreement does not grant any rights to source code.

RESERVED - 2.330 Source Code Escrow

2.400 Other Provisions

2.411 Forced Labor, Convict Labor, or Indentured Servitude Made Materials

Bidder represents and certifies that, to the best of its knowledge and belief no foreign (outside of the U.S.) made equipment, materials, or supplies, will be furnished to the State under any resulting Contract, that have been produced in whole or in part by forced labor, convict labor, or indentured servitude.

_____ (Initial)

2.421 Knowledge of Child Labor for Listed End Products

- (a) “Forced or indentured child labor” means all work or service:
 - (i) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
 - (ii) Performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

- (b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

| Listed End Product | Listed Country of Origin |
|--------------------|--------------------------|
| | |
| | |
| | |

(c) *Certification.* The State will not make award to a Bidder unless the Bidder, by checking the appropriate block, certifies to one of the following:

- () The Bidder will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.



() The Bidder may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The Bidder certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture the end product. On the basis of those efforts, the Bidder certifies that it is not aware of any the use of child labor.

_____ (Initial)



**Exhibit E
PRICING**

Exhibit E – STATE OF MICHIGAN SUBSCRIBER RADIOS

MICHIGAN STATEWIDE 800 MHz TRUNKING SYSTEM
SUPPLEMENTAL PRICE SHEET - State of Michigan

| Item | Qty | Model/Part No. | Description | Unit Price |
|------|-----|----------------|-------------|------------|
|------|-----|----------------|-------------|------------|

OPTIONAL SUBSCRIBER UNITS

MOBILE RADIOS - XTL5000

- All XTL5000 Mobile Radios include:
 Enhanced Smartnet Operation
 Trunked ID Display
 10 Watt Audio
 3 dB gain antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Mobile Subscriber Software Feature License
 ASTRO IV&D Capable
 Administrative Charges
 Shipping charges

| | | | | |
|----|---|----------------------|---|------------|
| 1 | 1 | M20URS9PW1N/G72 | XTL5000 - W3 | \$3,644.00 |
| 2 | 1 | M20URS9PW1N/G72E | XTL5000 - W3 with DES -OFB Encryption & OTAR | \$4,756.00 |
| 3 | 1 | M20URS9PW1N/G73 | XTL5000 - O5 - Dash Mount | \$3,150.00 |
| 4 | 1 | M20URS9PW1N/G73E | XTL5000 - O5 - Dash Mount with DES -OFB Encryption & OTAR | \$4,262.00 |
| 5 | 1 | M20URS9PW1N/G73/G67 | XTL5000 - O5 - Remote Mount | \$3,274.00 |
| 6 | 1 | M20URS9PW1N/G73E/G67 | XTL5000 - O5 - Remote Mount with DES -OFB Encryption & OTAR | \$4,386.00 |
| 7 | 1 | M20URS9PW1N/G81 | XTL5000 - W9 - Remote Mount | \$3,644.00 |
| 8 | 1 | M20URS9PW1N/G81E | XTL5000 - W9 - Remote Mount with DES -OFB Encryption & OTAR | \$4,756.00 |
| 9 | 1 | M20URS9PW1N/G83 | XTL5000 - W5 Motorcycle Radio | \$3,974.00 |
| 10 | 1 | M20URS9PW1N/G83 | XTL5000 - W5 Motorcycle Radio with DES -OFB Encryption & OTAR | \$5,086.00 |



XTL5000 Mobile Radio Options

| | | | | |
|----|---|-----------|--|------------|
| 11 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |
| 12 | 1 | W269 | Siren PA Module | \$319.00 |
| 13 | 1 | W665 | Control Station Operation (compatible with dash mount radios only) | \$132.00 |
| 14 | 1 | G625/G498 | DES-XL Operation & OTAR | \$1,112.00 |
| 15 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,780.00 |

MOBILE RADIOS - XTL2500

All XTL2500 Mobile Radios include:
 Enhanced Smartnet Operation
 Trunked ID Display
 3 dB gain antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Mobile Subscriber Software Feature License
 ASTRO IV&D Capable
 Administrative Charges
 Shipping charges

| | | | | |
|----|---|-----------------|------------------------|------------|
| 16 | 1 | M21URM9PW1N | XTL2500 - Dash Mount | \$2,983.00 |
| 17 | 1 | M21URM9PW1N/G67 | XTL2500 - Remote Mount | \$3,212.00 |

XTL2500 Mobile Radio Options

| | | | | |
|----|---|------|--|----------|
| 17 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |
| 18 | 1 | W269 | Siren PA Module | \$477.00 |

MOBILE RADIOS - XTL1500

All XTL1500 Mobile Radios include:
 Enhanced Smartnet Operation
 Trunked ID Display
 3 dB gain antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Mobile Subscriber Software Feature License
 ASTRO IV&D Capable
 Administrative Charges
 Shipping charges



| | | | | |
|----|---|-------------|----------------------|------------|
| 19 | 1 | M28URS9PW1N | XTL1500 - Dash Mount | \$1,722.00 |
|----|---|-------------|----------------------|------------|

XTL1500 Mobile Radio Options

| | | | | |
|----|---|-----|--|----------|
| 20 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |
|----|---|-----|--|----------|

CONTROL STATIONS - XTL5000

All XTL5000 Control Station Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Mobile Subscriber Software Feature License
- ASTRO IV&D Capable
- Administrative Charges
- Shipping charges

XTL5000 Control Station

| | | | | |
|----|---|----------------------|--|------------|
| 21 | 1 | M20URS9PW1 N | XTL5000 O5 - Control Station | \$3,690.00 |
| 22 | 1 | M20URS9PW1 N/G625 | XTL5000 O5 - Control Station with DES -OFB Encryption & OTAR | \$4,802.00 |
| 23 | 1 | L20URS9PW1 N/L146 | XTL5000 W7 - Console Control Station with tone remote control | \$5,299.00 |
| 24 | 1 | L20URS9PW1/G625/L146 | XTL5000 W7 - Console with TRC & DES -OFB Encryption | \$6,411.00 |
| 25 | 1 | L20URS9PW9 N/L146 | XTL5000 W9 - Console Control Station with digital remote control | \$4,976.00 |
| 26 | 1 | L20URS9PW9/G625/L146 | XTL5000 W9 - Console with DRC & DES -OFB Encryption | \$6,088.00 |

XTL5000 Control Station Radio Options

| | | | | |
|----|---|-----------|---|------------|
| 27 | 1 | L3030 | MC3000 Digital Remote Control | \$865.00 |
| 28 | 1 | L3208 | Junction box for MC3000 (1 required for up to 6 MC3000) | \$677.00 |
| 28 | 1 | L3213 | MC1000 Desktop Tone Remote | \$465.00 |
| 29 | 1 | G625/G498 | DES-XL Operation & OTAR | \$1,029.00 |
| 30 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,780.00 |

CONTROL STATIONS - XTL2500 & XTL1500



All XTL2500 & XTL1500 Control Station Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Mobile Subscriber Software Feature License
- ASTRO IV&D Capable
- Base Tray with Speaker
- Power Supply (120 VAC)
- Administrative Charges
- Shipping charges

XTL2500 Control Station

| | | | | |
|----|---|--------------|-------------------------|------------|
| 31 | 1 | M21URM9PW1 N | XTL2500 Control Station | \$3,244.00 |
|----|---|--------------|-------------------------|------------|

XTL1500 Control Station

| | | | | |
|----|---|--------------|-------------------------|------------|
| 32 | 1 | M28URS9PW1 N | XTL1500 Control Station | \$2,020.00 |
|----|---|--------------|-------------------------|------------|

PORTABLE RADIOS - XTS5000

All XTS5000 Portable Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Belt Clip
- Dipole Antenna
- Multi-Zone Operation
- ASTRO Project 25 CAI
- ASTRO IV&D Capability
- Portable Subscriber Software Feature License
- Administrative Charges
- Shipping charges

| | | | | |
|----|---|-------------|---|------------|
| 33 | 1 | H18UCF9PW6N | Astro XTS5000 Portable Radio - Model II | \$3,073.00 |
|----|---|-------------|---|------------|

| | | | | |
|----|---|------------------|--|------------|
| 34 | 1 | H18UCF9PW6N/Q625 | Astro XTS5000 Portable Radio - Model II with DES OFB Encryption & OTAR | \$4,102.00 |
|----|---|------------------|--|------------|

| | | | | |
|----|---|-------------|--|------------|
| 35 | 1 | H18UCH9PW7N | Astro XTS5000 Portable Radio - Model III | \$3,277.00 |
|----|---|-------------|--|------------|

| | | | | |
|----|---|------------------|---|------------|
| 36 | 1 | H18UCH9PW7N/Q625 | Astro XTS5000 Portable Radio - Model III with DES OFB Encryption & OTAR | \$4,306.00 |
|----|---|------------------|---|------------|

ASTRO XTS5000 Portable Radio Options & Accessories

| | | | | |
|----|---|---------|---------------------------|---------|
| 37 | 1 | NMN6193 | Remote Speaker Microphone | \$63.00 |
|----|---|---------|---------------------------|---------|



| | | | | |
|----|---|---------------|---|------------|
| 38 | 1 | NTN6124 | Comport Integrated Microphone/Receiver | \$322.00 |
| 39 | 1 | NTN8381 | Leather Swivel Carry Case | \$24.00 |
| 40 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$630.00 |
| 41 | 1 | NTN1873 | Single Unit Charger | \$125.00 |
| 42 | 1 | N2001 | XTVA Vehicular Adapter with 3 dB gain antenna | \$1,253.00 |
| 43 | 1 | N2001/NLF1258 | XTVA Vehicular Adapter with 15 watt amplifier and 3 dB gain antenna | \$1,678.00 |
| 44 | 1 | Q229 | Handheld Control Head for XTVA | \$312.00 |
| 45 | 1 | Q625/Q498 | DES-XL Operation & OTAR | \$1,029.00 |
| 46 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,780.00 |
| 47 | 1 | NTN8923 | High Capacity NiMH Battery | \$84.00 |

PORTABLE RADIOS - XTS2500

All XTS2500 Portable Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Belt Clip
- Dipole Antenna
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Portable Subscriber Software Feature License
- Administrative Charges
- Shipping charges

| | | | | |
|----|---|-------------|---|------------|
| 48 | 1 | H46UCC9PW5N | Astro XTS2500 Portable Radio - Model I - Basic - No display | \$1,706.00 |
| 49 | 1 | H46UCD9PW5N | Astro XTS2500 Portable Radio - Model I.5 with Display | \$1,806.00 |
| 50 | 1 | H46UCF9PW6N | Astro XTS2500 Portable Radio - Model II | \$2,096.00 |
| 51 | 1 | H46UCH9PW7N | Astro XTS2500 Portable Radio - Model III | \$2,356.00 |

ASTRO XTS2500 Portable Radio Options & Accessories

| | | | | |
|----|---|---------|---------------------------|---------|
| 52 | 1 | NMN6193 | Remote Speaker Microphone | \$63.00 |
|----|---|---------|---------------------------|---------|



| | | | | |
|----|---|----------|--|----------|
| 53 | 1 | NTN6124 | Comport Integrated Microphone/Receiver | \$322.00 |
| 54 | 1 | NNTN4116 | Leather Swivel Carry Case | \$45.00 |
| 55 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$630.00 |
| 56 | 1 | NTN1873 | Single Unit Charger | \$125.00 |
| 57 | 1 | NTN9858 | High Capacity NiMH Battery | \$106.00 |

PORTABLE RADIOS - XTS1500

All XTS5500 Portable Radios include:

- Enhanced Smartnet Operation
- Belt Clip
- Antenna
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Portable Subscriber Software Feature License
- Administrative Charges
- Shipping charges

| | | | | |
|----|---|-------------|---|------------|
| 58 | 1 | H66UCC9PW5N | Astro XTS1500 Portable Radio - Basic - No Display | \$1,293.00 |
| 59 | 1 | H66UCD9PW5N | Astro XTS1500 Portable Radio 1.5 with Display | \$1,375.00 |
| 60 | 1 | NMN6193 | Remote Speaker Microphone | \$63.00 |
| 61 | 1 | NNTN4116 | Leather Swivel Carry Case | \$45.00 |
| 62 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$630.00 |
| 63 | 1 | NTN1873 | Single Unit Charger | \$125.00 |
| 64 | 1 | NTN9858 | High Capacity NiMH Battery | \$106.00 |



Exhibit E – LOCAL AGENCY SUBSCRIBER RADIOS

MICHIGAN STATEWIDE 800 MHz TRUNKING SYSTEM

SUPPLEMENTAL PRICE SHEET - Local Units of Government

| Item | Qty | Model/Part No. | Description | Unit Price |
|--|-----|----------------------|---|------------|
| OPTIONAL SUBSCRIBER UNITS | | | | |
| MOBILE RADIOS - XTL5000 | | | | |
| All XTL5000 Mobile Radios include: | | | | |
| Enhanced Smartnet Operation | | | | |
| Trunked ID Display | | | | |
| 10 Watt Audio | | | | |
| 3 dB gain antenna | | | | |
| Multi-Zone Operation | | | | |
| ASTRO Project 25 CAI | | | | |
| Mobile Subscriber Software Feature License | | | | |
| ASTRO IV&D Capable | | | | |
| Administrative Charges | | | | |
| Shipping charges | | | | |
| 65 | 1 | M20URS9PW1N/G72 | XTL5000 - W3 | \$3,978.00 |
| 66 | 1 | M20URS9PW1N/G72E | XTL5000 - W3 with DES -OFB Encryption & OTAR | \$5,118.00 |
| 67 | 1 | M20URS9PW1N/G73 | XTL5000 - O5 - Dash Mount | \$3,441.00 |
| 68 | 1 | M20URS9PW1N/G73E | XTL5000 - O5 - Dash Mount with DES -OFB Encryption & OTAR | \$4,714.00 |
| 69 | 1 | M20URS9PW1N/G73/G67 | XTL5000 - O5 - Remote Mount | \$3,573.00 |
| 70 | 1 | M20URS9PW1N/G73E/G67 | XTL5000 - O5 - Remote Mount with DES -OFB Encryption & OTAR | \$4,848.00 |
| 71 | 1 | M20URS9PW1N/G81 | XTL5000 - W9 - Remote Mount | \$3,978.00 |
| 72 | 1 | M20URS9PW1N/G81E | XTL5000 - W9 - Remote Mount with DES -OFB Encryption & OTAR | \$5,118.00 |
| 73 | 1 | M20URS9PW1N/G83 | XTL5000 - W5 Motorcycle Radio | \$4,335.00 |
| 74 | 1 | M20URS9PW1N/G83 | XTL5000 - W5 Motorcycle Radio with DES -OFB Encryption & OTAR | \$5,475.00 |
| XTL5000 Mobile Radio Options | | | | |
| 75 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |



| | | | | |
|----|---|-----------|--|------------|
| 76 | 1 | W269 | Siren PA Module | \$499.00 |
| 77 | 1 | W665 | Control Station Operation (compatible with dash mount radios only) | \$336.00 |
| 78 | 1 | G625/G498 | DES-XL Operation & OTAR | \$1,140.00 |
| 79 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,968.00 |

MOBILE RADIOS - XTL2500

All XTL2500 Mobile Radios include:
 Enhanced Smartnet Operation
 Trunked ID Display
 3 dB gain antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Mobile Subscriber Software Feature License
 ASTRO IV&D Capable
 Administrative Charges
 Shipping charges

| | | | | |
|----|---|-----------------|------------------------|------------|
| 80 | 1 | M21URM9PW1N | XTL2500 - Dash Mount | \$2,983.00 |
| 81 | 1 | M21URM9PW1N/G67 | XTL2500 - Remote Mount | \$3,212.00 |

XTL2500 Mobile Radio Options

| | | | | |
|----|---|------|--|----------|
| 82 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |
| 83 | 1 | W269 | Siren PA Module | \$477.00 |

MOBILE RADIOS - XTL1500

All XTL1500 Mobile Radios include:
 Enhanced Smartnet Operation
 Trunked ID Display
 3 dB gain antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Mobile Subscriber Software Feature License
 ASTRO IV&D Capable
 Administrative Charges
 Shipping charges

| | | | | |
|----|---|-------------|----------------------|------------|
| 84 | 1 | M28URS9PW1N | XTL1500 - Dash Mount | \$1,722.00 |
|----|---|-------------|----------------------|------------|



XTL1500 Mobile Radio Options

| | | | | |
|----|---|-----|--|----------|
| 85 | 1 | W20 | Pushbutton Microphone for W7 operation | \$133.00 |
|----|---|-----|--|----------|

CONTROL STATIONS - XTL5000

All XTL5000 Control Station Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Mobile Subscriber Software Feature License
- ASTRO IV&D Capable
- Administrative Charges
- Shipping charges

XTL5000 Control Station

| | | | | |
|----|---|----------------------|---|------------|
| 86 | 1 | M20URS9PW1 N | XTL5000 O5 - Control Station | \$3,785.00 |
| 87 | 1 | M20URS9PW1 N/G625 | XTL5000 O5 - Control Station with DES -OFB Encryption & OTAR | \$4,925.00 |
| 88 | 1 | L20URS9PW1 N/L146 | XTL5000 W7 - Consolette Control Station with tone remote control | \$5,299.00 |
| 89 | 1 | L20URS9PW1/G625/L146 | XTL5000 W7 - Consolette with TRC & DES -OFB Encryption | \$6,439.00 |
| 90 | 1 | L20URS9PW9 N/L146 | XTL5000 W9 - Consolette Control Station with digital remote control | \$4,976.00 |
| 91 | 1 | L20URS9PW9/G625/L146 | XTL5000 W9 - Consolette with DRC & DES -OFB Encryption | \$6,116.00 |

XTL5000 Control Station Radio Options

| | | | | |
|----|---|-----------|---|------------|
| 92 | 1 | L3030 | MC3000 Digital Remote Control | \$865.00 |
| 93 | 1 | L3208 | Junction box for MC3000 (1 required for up to 6 MC3000) | \$677.00 |
| 94 | 1 | L3213 | MC1000 Desktop Tone Remote | \$465.00 |
| 95 | 1 | G625/G498 | DES-XL Operation & OTAR | \$1,140.00 |
| 96 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,968.00 |



CONTROL STATIONS - XTL2500 & XTL1500

All XTL2500 & XTL1500 Control Station Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Mobile Subscriber Software Feature License
- ASTRO IV&D Capable
- Base Tray with Speaker
- Power Supply (120 VAC)
- Administrative Charges
- Shipping charges

XTL2500 Control Station

| | | | | |
|----|---|--------------|-------------------------|------------|
| 97 | 1 | M21URM9PW1 N | XTL2500 Control Station | \$3,244.00 |
|----|---|--------------|-------------------------|------------|

XTL1500 Control Station

| | | | | |
|----|---|--------------|-------------------------|------------|
| 98 | 1 | M28URS9PW1 N | XTL1500 Control Station | \$2,020.00 |
|----|---|--------------|-------------------------|------------|

PORTABLE RADIOS - XTS5000

All XTS5000 Portable Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Belt Clip
- Dipole Antenna
- Multi-Zone Operation
- ASTRO Project 25 CAI
- ASTRO IV&D Capability
- Portable Subscriber Software Feature License
- Administrative Charges
- Shipping charges

| | | | | |
|-----|---|------------------|--|------------|
| 99 | 1 | H18UCF9PW6N | Astro XTS5000 Portable Radio - Model II | \$3,257.00 |
| 100 | 1 | H18UCF9PW6N/Q625 | Astro XTS5000 Portable Radio - Model II with DES OFB Encryption & OTAR | \$4,286.00 |
| 101 | 1 | H18UCH9PW7N | Astro XTS5000 Portable Radio - Model III | \$3,644.00 |
| 102 | 1 | H18UCH9PW7N/Q625 | Astro XTS5000 Portable Radio - Model III with DES OFB Encryption & OTAR | \$4,673.00 |



ASTRO XTS5000 Portable Radio Options & Accessories

| | | | | |
|-----|---|---------------|---|------------|
| 103 | 1 | NMN6193 | Remote Speaker Microphone | \$67.00 |
| 104 | 1 | NTN6124 | Comport Integrated Microphone/Receiver | \$337.00 |
| 105 | 1 | NTN8381 | Leather Swivel Carry Case | \$28.00 |
| 106 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$642.00 |
| 107 | 1 | NTN1873 | Single Unit Charger | \$132.00 |
| 108 | 1 | N2001 | XTVA Vehicular Adapter with 3 dB gain antenna | \$1,308.00 |
| 109 | 1 | N2001/NLF1258 | XTVA Vehicular Adapter with 15 watt amplifier and 3 dB gain antenna | \$1,752.00 |
| 110 | 1 | Q229 | Handheld Control Head for XTVA | \$327.00 |
| 111 | 1 | Q625/Q498 | DES-XL Operation & OTAR | \$1,029.00 |
| 112 | 1 | T6717 | KVL3000 PLUS Encryption Keyloader | \$2,968.00 |
| 113 | 1 | NTN8923 | High Capacity NiMH Battery | \$88.00 |

PORTABLE RADIOS - XTS2500

All XTS2500 Portable Radios include:

- Enhanced Smartnet Operation
- Trunked ID Display
- Belt Clip
- Dipole Antenna
- Multi-Zone Operation
- ASTRO Project 25 CAI
- Portable Subscriber Software Feature License
- Administrative Charges
- Shipping charges

| | | | | |
|-----|---|-------------|---|------------|
| 114 | 1 | H46UCC9PW5N | Astro XTS2500 Portable Radio - Model I - Basic - No display | \$2,002.00 |
| 115 | 1 | H46UCD9PW5N | Astro XTS2500 Portable Radio - Model I.5 with Display | \$2,079.00 |
| 116 | 1 | H46UCF9PW6N | Astro XTS2500 Portable Radio - Model II | \$2,439.00 |



| | | | | |
|-----|---|-------------|--|------------|
| 117 | 1 | H46UCH9PW7N | Astro XTS2500 Portable Radio - Model III | \$2,616.00 |
|-----|---|-------------|--|------------|

ASTRO XTS2500 Portable Radio Options & Accessories

| | | | | |
|-----|---|----------|--|----------|
| 118 | 1 | NMN6193 | Remote Speaker Microphone | \$67.00 |
| 119 | 1 | NTN6124 | Comport Integrated Microphone/Receiver | \$337.00 |
| 120 | 1 | NNTN4116 | Leather Swivel Carry Case | \$47.00 |
| 121 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$642.00 |
| 122 | 1 | NTN1873 | Single Unit Charger | \$132.00 |
| 123 | 1 | NTN9858 | High Capacity NiMH Battery | \$115.00 |

PORTABLE RADIOS - XTS1500

All XTS5500 Portable Radios include:
 Enhanced Smartnet Operation
 Belt Clip
 Antenna
 Multi-Zone Operation
 ASTRO Project 25 CAI
 Portable Subscriber Software Feature License
 Administrative Charges
 Shipping charges

| | | | | |
|-----|---|-------------|---|------------|
| 124 | 1 | H66UCC9PW5N | Astro XTS1500 Portable Radio - Basic - No Display | \$1,293.00 |
| 125 | 1 | H66UCD9PW5N | Astro XTS1500 Portable Radio 1.5 with Display | \$1,375.00 |
| 126 | 1 | NMN6193 | Remote Speaker Microphone | \$67.00 |
| 127 | 1 | NNTN4116 | Leather Swivel Carry Case | \$47.00 |
| 128 | 1 | WLPN4108 | Six Unit Multi-charger - SMART | \$642.00 |
| 129 | 1 | NTN1873 | Single Unit Charger | \$132.00 |
| 130 | 1 | NTN9858 | High Capacity NiMH Battery | \$115.00 |



Exhibit E – PRODUCT CODE (APC) DISCOUNTS

| SECTION | CATEGORY | MODEL DESCRIPTION | PRODUCT CODES (APC) | DISC. % | | |
|-------------------------------|----------------------------------|----------------------------|-------------------------|----------------------|-------------|-----|
| 1.0 | MOBILE RADIOS | PM 400 Series | 019,185,554,412,706 | 15% | | |
| | | PM 1500 Series | 483,185,604,623,204 | 15% | | |
| | | APX | 656 | 10% | | |
| | | Astro XTL5000 | 500, 585 | 20% | | |
| | | Astro XTL2500 | 514, 518 | 20% | | |
| | | Astro XTL1500 | 775, 726 | 23% | | |
| | | Base Interface | 351 | 15% | | |
| | | CDM Series | 103, 554,577,109 | 30% | | |
| | | HPD1000 | 153 | 15% | | |
| | | All Other Radius | All APC Codes | 20% | | |
| | | Vehicular Repeater System | 287 | 15% | | |
| | | 1.1 | MOBILE ACCESSORY | Antennas | 644,555,455 | 15% |
| | | 2.0 | FIXED STATIONS | Simulcast Controller | 335 | 15% |
| MTR 2000 | 512 | | | 29% | | |
| Quantar | 448,225 | | | 20% | | |
| Quantar | 509 | | | 24% | | |
| XTL5000 Console | 276 | | | 20% | | |
| Radius All | All APC Codes | | | 20% | | |
| All Other Non Listed Stations | All APC Codes | | | 10% | | |
| CDR Series | 794,793,291,362,457 | | | 10% | | |
| GTR Series | 112 | | | 10% | | |
| 2.1 | MICROWAVE | | | Microwave | 131 | 5% |
| 2.2 | FIXED STATION ACCESSORIES | All Items | 207,274,201,351,740 | 10% | | |
| | | All Dropship Not Listed | All APC Codes | 10% | | |
| 2.3 | FIXED STATION CONTROLS | CentraCom Gold | 404, 202, 228, 322 | 21% | | |
| | | Control Modules | 228, 244 | 21% | | |
| | | Console | 202 | 21% | | |
| | | Flashport | 729 | 0% | | |
| | | Command Plus | 740, 129 | 16% | | |
| | | Command Star | 124 | 16% | | |
| | | MC Series Desk Top Control | 124 | 16% | | |
| | | Console Furniture | 202,229,708 | 10% | | |
| | | CRT Console | 708 | 5% | | |
| | | Plant 911 | 131 | 10% | | |



| | | | | |
|------------|-------------------------|----------------------------|--------------------|-----|
| | | Nice Recording | 229 | 5% |
| | | MC3000 Digital | 124 | 16% |
| | | MIP5000 VOiP Radio Console | 740,322,124 | 5% |
| | | MCC5500 | 322 | 10% |
| | | MCC7500 | 443 | 15% |
| 2.5 | ANTENNA SYSTEMS | | | |
| | | All Items | 207, 708, 291, 229 | 10% |
| 2.7 | RECEIVERS | Minitor IV | 183, 839 | 10% |
| | | Quantar Receiver | 743, 509 | 15% |
| | | Astro Tac Receiver | 743, 360, 225, 677 | 15% |
| | | MTR2000 Receiver | 512 | 15% |
| 3.0 | PORTABLE RADIOS | | | |
| | | APX | 655 | 10% |
| | | XTS5000 | 721, 320, 654 | 20% |
| | | XTS 2500 | 205, 407 | 20% |
| | | XTS1500 | 687 | 20% |
| | | XTVA | 256 | 15% |
| | | HT 750 | 672 | 30% |
| | | HT 1250 | 749 | 30% |
| | | EX400/500 | 004 | 25% |
| | | MTX | 511,921 | 25% |
| | | CP 100 | 009 | 15% |
| | | CP150 | 018 | 15% |
| | | CP200 | 018 | 15% |
| | | CP125 | 246 | 15% |
| | | PR400 | 442 | 15% |
| | | PR860 | 005 | 15% |
| | | PR1500 | 626 | 15% |
| | | Personal Location | 222,372 | 10% |
| | | MT1500 | 687 | 20% |
| | | All Other Radius | All APC Codes | 20% |
| 4.0 | PAGERS | All Pagers | All APC Codes | 15% |
| 4.1 | PAGING ENCODERS | Zetron 640, 2100, 2200 | 226 | 15% |
| 5.0 | SECURE SOLUTIONS | Comparator | 424 | 20% |
| | | Voice Modem | 643 | 16% |
| | | Key Mgmt Controller | 137 | 15% |
| | | Console Interface | 424 | 20% |
| | | KVL3000 | 201, 462, 414, 454 | 16% |
| | | AstroTac | 525 | 20% |



| | | | | |
|-------------|--------------------------------|---|------------------------------|------------|
| | | Astro DIU | 524 | 20% |
| 6.2 | TRUNKED RADIO | Smartnet systems | 277 | 15% |
| | | Smartzone systems | 280.281 | 15% |
| | | ASTRO systems | 524,525 | 20% |
| | | SIMS II, SIP, Systems Watch | 647 | 15% |
| | | FNX2000 | 495 | 15% |
| | | Astro 25 Software | 877 | 0% |
| 7.0 | FLASHPORT | FLASHport software | 430 | 0% |
| 11.0 | DATA SYSTEMS | Mobile Workstation 800 Series | 736 | 20% |
| | | ML900 Mobile Workstation Series | 343 | 20% |
| | | HC700 Hand Held Computer | 451, 629 | 25% |
| | | Mobile Digital Video Recorder | 171 | 5% |
| | | Workstation 300 & 350 | 450 | 10% |
| | | VRM 850 | 508 | 12% |
| | | RNC3000 | 381 403 | 12% |
| | | Quantar Data Station | 509 680 | 12% |
| | | Data Infrastructure | 403 | 5% |
| | | Fixed Network Equipment | 683,291,207,708, | 10% |
| | | Mobile Computing Accessories | 170 & 291 | 10% |
| | | Mobil Video | 171 | 10% |
| 12.0 | BROADBAND SOLUTIONS | Mesh, Motomesh | 683, 291 | 10% |
| | | Meshtrac | 683, | 10% |
| | | Hotzone Duo Wireless Access Point | 683 | 15% |
| | | Wireless Networking Solutions | All APC Codes | 10% |
| | | Intelligent Traffic Surveillance Solutions | 040 | 10% |
| | | Multi-Net Mobility Fire Ground Communications System | 39,708,509 15,772,721,332 | 15% 10% |
| 13.0 | BIOMETRICS | Air Mobile | All APC Codes | 10% |
| | | Automatic License Plate Recognition | 041 | 10% |
| | | Intelligent Video Surveillance & Control | 41,683,343 | 10% |
| 14.0 | FIXED & MOBILE DATA | MOSCAD, MCP | 214 | 10% |
| | | Intrac | 275, 403, 683, 469 | 15% |
| | | ACE3600 | 085 | 10% |
| 15.0 | INTEGRATED SOLUTIONS | Mobile Applications | 879 | 5% |
| | | CAD Solutions | 333, 611 | 5% |



| | | | | |
|-------------|---|--|---------|-----|
| | | TX Application | 232 | 5% |
| | | Public Service Applications | 842 | 5% |
| | | Records Management Solutions | 879 | 5% |
| 16.0 | SERVICE PRODUCTS | Infras Board Level Rep | 290 | 10% |
| | | Information Services | 768 | 10% |
| | | Radio Support Center Services | 964A | 10% |
| | | Field Response Services | 984 | 10% |
| | | Upgrade Assurance Plan | 877 | 5% |
| | | Software Subscription | 877 | 5% |
| 17.0 | PROFESSIONAL SERVICES | Professional Services | 128,208 | 5% |
| | | Training | | 5% |
| 17.0 | SECURITY SERVICES | ASTRO Network Security Monitoring | 519 | 5% |
| | | Pre-Tested Software Subscription | 519 | 5% |
| 17.0 | SITE MANAGEMENT | Antenna Site Audit | 390 | 5% |
| | | Antenna Site Management | 390 | 5% |
| | | Radio Site Security | 768 | 5% |
| | | Inventory Management Service | 219 | 5% |
| | INSTALLATION | Instal/Removal - FSO | 461 | 5% |
| | | Install/Removal - MSS | 209 | 5% |
| | TECHNICAL SERVICES | Dispatch Service | 768 | 10% |
| | | Network Monitoring Service | 561 | 10% |
| | | OnSite Infrastructure Response Service | 769 | 5% |
| | | Network Preventive Maintenance | 769 | 5% |
| | | Technical Support Service | 772 | 10% |
| | REPAIR SERVICES - SUBSCRIBER | | | |
| | | Local Radio Support Service | 206 | 5% |
| | | Radio Repair Bank | 386 | 0% |
| | | Radio Repair Service | 964 | 5% |
| | REPAIR SERVICES - INFRASTRUCTURE | | | |
| | | Infrastructure Repair | 929 | 10% |
| | | Infrastructure Repair w/Adv. Rep. | 929 | 10% |



| | | | | |
|-------------|--------------------------------------|--------------------------------------|---------------|-----|
| | | | | |
| | SOFTWARE SUBSCRIPTION SERVICE | | | |
| | | Software Subscription Agreement | 823/260 | 5% |
| | | Infrastructure Software Installation | 984 | 5% |
| | | Software Upgrade Design Service | 768 | 0% |
| | | Radio Software Installation Service | 295 | 5% |
| | | | | |
| 18.0 | PARTS & ACCESSORIES | All Parts and Accessories | All APC Codes | 15% |

NOTES:

- 1) DISCOUNTS APPLY TO ALL EQUIPMENT OPTIONS THAT ARE COVERED BY THE SAME PRODUCT CODE (APC NUMBER). OPTIONS THAT EXTEND EQUIPMENT WARRANTY, SUCH AS OPTION NUMBER H885 AND G24 ARE NOT DISCOUNTED, THESE ARE CLEARLY IDENTIFIED AS "EXTENDED WARRANTY" OR EXTENDED PERFORMANCE AGREEMENT"
- 2) ANY "DROP SHIP" ITEM NOT OTHERWISE IDENTIFIED BY A PRODUCT CODE (APC) IS DISCOUNTED AT 10%
- 3) ALL ACCESSORIES ORDERED THROUGH MOTOROLA PARTS AND AFTER MARKET ACCESSORIES DIVISION IS 15% DISCOUNT
- 4) VALUE-ADDED SERVICES INCLUDED WITH THIS CONTRACT ARE:
 - A) ON-SITE HELP WITH SYSTEM DESIGN AND ENGINEERING BEFORE THE PURCHASE
 - B) ASSISTANCE WITH ANALYSES OF AGENCY OPERATIONS, SPECIFIC TO COMMUNICATIONS, TO IDENTIFY POTENTIAL IMPROVEMENTS IN



Exhibit E – PORTABLE RADIO BATTERY PRICES

| Part Number | Type | Chem Type | Avg. Mah | Warranty Type | Other Info | Michigan Contract Price |
|--|------|-----------|----------|---------------|--------------|-------------------------|
| HT1000 / MT2000 / MTS2000 / JT1000 MTX8000 & 9000 | | | | | | |
| HNN9028AR | Batt | NiCd | 1500 | 24C/24W | IMPRES/SMART | \$39.00 |
| HNN9029AR | Batt | NiCd | 1400 | 24C/24W | IMPRES/SMART | \$51.00 |
| NTN7143CR | Batt | NiCd | 1200 | 18C/24W | | \$31.00 |
| NTN7144CR | Batt | NiCd | 1500 | 18C/24W | | \$33.00 |
| NTN7146AR | Batt | NiCd | 1200 | 18C/24W | | \$40.00 |
| NTN7147AR | Batt | NiCd | 1300 | 18C/24W | | \$43.20 |
| NTN7150AR | Batt | NiCd | 1200 | 18C/24W | MSHA | \$45.00 |
| NTN7341AR | Batt | NiCd | 1400 | 18C/24W | | \$43.20 |
| NTN7372AR | Batt | NiCd | 1200 | 18C/24W | | \$40.00 |
| WPNN4013A | Batt | NiMH | 2000 | 12C/24W | | \$42.00 |
| HNN9013DR | Batt | NiMH | 1500 | | | \$40.00 |
| WPNN4037A | Batt | NiMH | 1900 | 12C/24W | | \$52.00 |

| SABER / ASTRO | | | | | | |
|----------------------|------|------|------|---------|--------------|---------|
| HNN9033AR | Batt | NiCd | 1800 | 24C/24W | IMPRES/SMART | \$45.00 |
| HNN9034AR | Batt | NiCd | 1800 | 24C/24W | IMPRES/SMART | \$55.00 |
| NTN4538DR | Batt | NiCd | 1100 | 18C/24W | Submersible | \$45.00 |
| NTN4593DR | Batt | NiCd | 1100 | 18C/24W | | \$34.80 |
| NTN4595DR | Batt | NiCd | 1800 | 18C/24W | | \$42.60 |
| NTN4596DR | Batt | NiCd | 1800 | 18C/24W | Submersible | \$55.50 |
| NTN4992CR | Batt | NiCd | 1800 | 18C/24W | Submersible | \$48.00 |
| NTN7014BR | Batt | NiMH | 950 | 12C/24W | | \$36.00 |
| NTN7058AR | Batt | NiCd | 1800 | 18C/24W | Submersible | \$57.00 |
| NTN8251AR | Batt | NiMH | 1650 | 12C/24W | | \$41.00 |

| XTS2000/3000/3500/5000 | | | | | | |
|-------------------------------|------|------|------|---------|---------------------|---------|
| NTN8294BR | Batt | NiCd | 1525 | 18C/24W | | \$30.00 |
| NTN8295AR | Batt | NiCd | 1525 | 18C/24W | DFG with encryption | \$40.00 |
| NTN8297AR | Batt | NiCd | 1525 | 18C/24W | DFG with encryption | \$43.00 |
| NTN8299BR | Batt | NiMH | 2000 | 12C/24W | DFG with encryption | \$42.00 |
| NTN8923AR | Batt | NiMH | 2000 | 12C/24W | | \$34.50 |
| RNN4006B | Batt | NiMH | 3500 | 12C/24W | | \$45.00 |
| RNN4007AR | Batt | NiMH | 3500 | 12C/24W | DFG with encryption | \$53.00 |
| NNTN4435AR | Batt | NiMH | 2000 | 18C/24W | IMPRES/SMART | \$42.00 |
| NNTN4436B | Batt | NiMH | 2000 | 18C/24W | IMPRES/SMART | \$50.00 |
| NNTN4437B | Batt | NiMH | 2000 | 18C/24W | impres/smart/Rugged | \$53.00 |
| HNN9031B | Batt | NiCd | 1525 | | | \$38.00 |
| HNN9032B | Batt | NiCd | 1525 | | | \$48.00 |
| NTN9862C | Batt | LION | 2700 | | | \$50.00 |

| XTS2500 | | | | | | |
|----------------|------|------|------|---------|--|---------|
| NTN9815B | Batt | NiCd | 1525 | 18C/24W | | \$31.00 |
| NTN9816B | Batt | NiCd | 1525 | 18C/24W | | \$39.00 |
| NTN9858AR | Batt | NiMH | 1800 | 12C/24W | | \$36.50 |
| NTN9857AR | Batt | NiMH | 1800 | 12C/24W | | \$44.00 |
| NNTN6263A | Batt | NiMH | 2000 | 12C/24W | | \$46.00 |
| NTN9857C | Batt | NiMH | 2000 | 12C/24W | | \$44.00 |



| | | | | | |
|----------|------|------|------|---------|---------|
| NTN9858C | Batt | NiMH | 2100 | 12C/24W | \$37.50 |
|----------|------|------|------|---------|---------|

SSE5000

| | | | | | |
|----------|------|--|--|--|---------|
| HNN9033B | Batt | | | | \$45.00 |
| HNN9034B | Batt | | | | \$55.00 |

HT1250LS

| | | | | | |
|-----------|------|------|------|---------|---------|
| HNN9012BR | Batt | NiCd | 1300 | 18C/24W | \$36.00 |
| HNN9008AR | Batt | NiMH | 1500 | | \$30.00 |
| HNN4003A | Batt | Lion | | | \$45.00 |

Legacy

Legacy

Legacy

| | | | | | |
|-----------|------|------|------|--|---------|
| NLN4463B | Batt | NiCd | 550 | | \$32.00 |
| NTN5414BR | Batt | NiCd | 1100 | | \$34.80 |
| NTN5447BR | Batt | NiCd | 1100 | | \$38.25 |
| NTN7395BR | Batt | | 1200 | | \$62.50 |

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