



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

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

CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Contract Number **071B4300037**

CONTRACTOR	BLUE CROSS AND BLUE SHIELD OF MICHIGAN
	600 Layfayette E, 517J
	Detroit, MI 48226
	Patricia Soyemi
	313-448-6943
	psoyemi@bcbsm.com
	*****9753

STATE	Program Manager	Steven Crippen	DTMB
		313-448-6943	
	crippens@michigan.gov		
	Contract Administrator	Brandon Samuel	DTMB
(517) 284-7025			
SamuelB@michigan.gov			

CONTRACT SUMMARY				
DESCRIPTION: MPSERS Vision Benefit Plan				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
January 1, 2014	December 31, 2016	2 - 1 Year	December 31, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
N/A		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 Year	<input type="checkbox"/>		December 31, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$19,375,120.54		\$7,000,000.00	\$26,375,120.54	
DESCRIPTION: Effective September 13, 2016, this contract is amended as follows:				
1) Exercise the first option year the revised contract expiration date is December 31, 2017				
2) Increased by \$7,000,000.00				
3) Attachment B Plan Design is deleted and replaced as follows: Reserved				
4) Section 1.022. Work and Deliverables - Plan Design A (2) is deleted and replaced as follows: The Contractor must provide the Plan Design as directed by the Plan Sponsor.				
5) Section 1.061 Pricing is deleted and replaced as follows: For authorized Services and Price List, see Attachment A. Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dtmb for current rates.				

Contractor will provide Plan Sponsor with \$800,000 credit to be used toward progressive lens claims charges. This includes any bifocal lens claim associated with a progressive lens claim, or any progressive lens claim associated with a bifocal lens claim.

Progressive lenses include, but are not limited to, the following procedure codes:

- V2781
- V278122
- V278125
- V2781TG

Contractor must provide quarterly reports that identify all progressive lens charges and any associated bifocal lens charges. Reports must include, at a minimum: member ID, date of service, location of service, submitted amount, plan pay (amount charged to Plan Sponsor), member copay, and paid date for each claim. The reports must also include the total claims charges applied against the credit and the remaining balance of the credit.

6) Attachment A Pricing deleted and replaced per attached revised Attachment A.

All other terms, conditions, specifications, and remain the same. Per agency request, contractor agreement, DTMB Procurement approval, and State Administrative Board approval on September 13, 2016.

Attachment A- Pricing

	2017
Member Contract Per Year Cost-Administration	\$5.52
Member + 1 Contract Per Year Cost-Administration	\$5.52
Family Contract Per Year Cost-Administration	\$5.52

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B4300037
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Blue Cross & Blue Shield of Michigan 600 Lafayette E, 517J Detroit, MI 48226	Patricia Soyemi	psoyemi@bcbsm.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(313) 448-6943	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Steve Crippen	517-322-6857	crippens@michigan.gov
BUYER	DTMB	Lance Kingsbury	517-284-7017	kingsburyl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Administration of the Michigan Public School Employees Retirement System (MPSERS) Vision Benefit Plan for Eligible Retirants, Dependents, and COBRA Participants			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2014	December 31, 2016	2, one year	December 31, 2016
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		Dec. 31, 2016
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$19,375,120.54		

Effective October 15, 2014, the attached updated Attachment A is hereby incorporated into this contract. All other terms, conditions, pricing and specifications remain the same. Per contractor and agency agreement and the approval of DTMB Procurement.

Attachment A – Pricing

Pricing Option	Plan Year 1	Plan Year 2	Plan Year 3	Total Cost
Self-Funded Option				
Employee Contract Per Year Cost - Administration	\$4.08	\$4.20	\$4.32	\$12.60
Employee + 1 Contract Per Year Cost - Administration	\$4.08	\$4.20	\$4.32	\$12.60
Family Contract Per Year Cost - Administration	\$4.08	\$4.20	\$4.32	\$12.60

Contractor will not charge the Plan Sponsor for any bifocal lens claim associated with a progressive lens claim, or for any progressive lens claim associated with bifocal lens claim. Progressive lens claims are processed under this Contract with a \$0.00 Plan Sponsor charge. As a result, Contractor's charge to the Plan Sponsor for bifocals associated with progressive lenses must be \$0.00.

Progressive lenses include, but are not limited to, the following procedure codes:

- V2781
- V278122
- V278125
- V2781TG

Contractor must provide quarterly reports that identify all progressive lens charges and any associated bifocal lens charges. Reports must include, at a minimum: member ID, date of service, location of service, submitted amount, plan pay (amount charged to Plan Sponsor), and member copay for each claim.

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

**NOTICE
 OF
 CONTRACT NO. 071B4300037**
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Blue Cross & Blue Shield of Michigan 600 Lafayette E, 517J Detroit, MI 48226	Patricia Soyemi	psoyemi@bcbsm.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(313) 448-6943	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Steve Crippen	517-322-6857	crippens@michigan.gov
BUYER:	DTMB	Lance Kingsbury	517-241-3768	kingsburyl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Descriptive Contract Title (Not always the same language as provided in MAIN)			
Administration of the Michigan Public School Employees Retirement System (MPSERS) Vision Benefit Plan for Eligible Retirants, Dependents, and COBRA Participants			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 years	January 1, 2014	December 31, 2016	2, one year
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$19,375,120.54

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

CONTRACT NO. 071B4300037
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THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Blue Cross & Blue Shield of Michigan 600 Lafayette E, 517J Detroit, MI 48226	Patricia Soyemi	psoyemi@bcbsm.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(313) 448-6943	

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CONTRACT COMPLIANCE INSPECTOR:	DTMB	Steve Crippen	517-322-6857	crippens@michigan.gov
BUYER:	DTMB	Lance Kingsbury	517-241-3768	kingsburyl@michigan.gov

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3 years	January 1, 2014	December 31, 2016	2, one year
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ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$19,375,120.54	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #07113200061. Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

Notice of Contract #: 071B4300037

FOR THE CONTRACTOR:	FOR THE STATE:
Blue Cross & Blue Shield of Michigan	
Firm Name	Signature
	Jeff Brownlee, Chief Procurement Officer
Authorized Agent Signature	Name/Title
	DTMB Procurement
Authorized Agent (Print or Type)	Enter Name of Agency
Date	Date



STATE OF MICHIGAN
Department of Technology, Management and Budget
DTMB-Procurement

Contract Number: 071B4300037

Administration of the Michigan Public School Employees Retirement System (MPERS) Vision Benefit Plan for Eligible Retirants, Dependents, and COBRA Participants

Buyer Name: Lance Kingsbury
Telephone Number: 517-241-3768
E-Mail Address: kingsburyl@michigan.gov



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Attachment A, Pricing
Attachment B, Plan Design



DEFINITIONS

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

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

Administration Fee means the agreed upon amount that will be paid to the Contractor by the Plan Sponsor for administration of the Plan.

A.M. Best Company means a credit rating organization serving the financial services industries, including the banking and insurance sectors.

A.M. Best Financial Strength Rating means an independent opinion, based on a comprehensive quantitative and qualitative evaluation, of a company's balance sheet strength, operating performance and business profile, as determined by A.M. Best Company.

Appeal means the formal procedures that address the review of adverse Organization Determinations on the vision services or products an enrollee believes he or she is entitled to receive, including delay in providing, arranging for, or approving services or products or on any amounts the enrollee must pay for a product or service after the services have been provided.

Approved Amount means the Contractually defined price for Covered Products or Services specified by the Vision Plan and its contracted network providers.

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

Benefit Guide means the publication that the Member receives which is developed and issued by the Contractor.

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

Business Day (whether capitalized or not) must mean any day other than a Saturday, Sunday, or State-recognized legal holiday from 8:00 a.m. EST through 5:00 p.m. EST unless otherwise stated.

CCI means Contract Compliance Inspector.

Claim means a submission for payment of a service.

Claims Processing means the procedures that the Contractor uses to review a Claim for Member Eligibility, coverage determination, Provider payment, and Member obligation.

Coordination of Benefits (COB) means claims administration when Members are covered by more than one vision plan.

Contract Holder means an active employee, retiree, pension beneficiary, or COBRA participant who satisfies all of the eligibility criteria necessary to receive vision coverage through the Plan Sponsor.

Contractor means the organization selected to administer the Vision Plan for both Non-Medicare and Medicare Eligible members.

Covered Product or Service means the vision examinations, glasses, lenses, contacts, and associated additional options that are covered pursuant to the Plan Sponsor's Plan Design.



Customer Assistance or Customer Service means a web based and/or telephonic system by which Members can make Inquiries about the Plan and the Contractor can answer or resolve them.

Data Management Vendor means a third party administrator of the Plan Sponsor's database and reporting systems.

Days mean calendar days unless otherwise specified.

Dental Plan means a plan that provides coverage for dental services for the Plan Sponsor's Members on behalf of the Plan Sponsor in accordance with this contract.

Deliverable means Covered Products or Services and reporting required or identified in a Statement of Work.

Dependent means an individual who satisfies, through a Contract Holder, all of the eligibility criteria necessary to receive vision coverages under the Plan Sponsor's Plan and is identified by the Plan Sponsor to the Contractor.

Disruption Analysis means the identification of members who are obtaining their vision care from Providers that are not participating in the new Contactor's Provider Network and any proposed remediation to mitigate the disruption.

DTMB means the Michigan Department of Technology, Management and Budget.

Eligible Claim means a submission for payment of a Covered Product or Service that is covered by the Plan, pursuant to the Plan Design.

Eligibility means the status of an individual with respect to their coverage under the Plan.

Eligibility System means the database maintained by the Contractor that contains information on the effective dates of coverage for all Members that can be accessed by authorized individuals.

Explanation of Benefits (EOB) means written statement sent to a Member, from the Contractor, after a claim has been reported, indicating the benefits and charges covered or not covered by the Plan.

Fee Schedule means the list of the approved amounts established or agreed to by Network Providers and the Contractor for specific Covered Products or Services.

Grievance means any complaint or dispute, other than one involving an Organization Determination, expressing dissatisfaction with the manner in which a Vision Plan or delegated entity provides vision services, regardless of whether any remedial action can be taken. Grievances may include complaints regarding the timeliness, appropriateness, access to, and/or setting of a provided item or service. An enrollee or their representative may make the complaint or dispute, either orally or in writing, to a Vision Plan, provider, or facility.

Health Plan means a plan that provides health coverage for the Plan Sponsor's Members.

HIPAA means the Health Insurance Portability and Accountability Act of 1996.

Identification Card means the card produced by the Contractor that documents the Member's eligibility and coverage under the plan.

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



Inquiry means any oral or written request to the Contractor, one of its Subcontractors, or received by Plan Sponsor and forwarded on to Contractor, that is not a Grievance does not involve a request for Appeal of any Organization Determination made by the Contractor.

Key Personnel means any Personnel identified in **Section 1.031** as Key Personnel; also see **Section 2.062**.

Member means each Contract Holder and eligible Dependent.

Member Materials mean those materials published by the Contractor for distribution to Members.

MPSERS means the Michigan Public School Employees Retirement System.

Network Provider means a Provider who has an agreement with the Contractor to provide Covered Products or Services to Members.

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

Organizational Determination mean a decision by the Contractor to approve prior to service delivery a request for services or products and/or a determination by the Contractor to cover services or products after they have been obtained by a member.

ORS means Office of Retirement Services.

Pass-Through Pricing means that all charges to the Plan are equal to the Contractor's payments to Providers without any additional charges that have not been explicitly disclosed to the Plan Sponsor.

Payment Card Industry (PCI) denotes the debit, credit, prepaid, e-purse, ATM, and POS cards and associated businesses.

Pharmacy Benefits Manager (PBM) means a third party administrator of prescription pharmaceutical programs that has been assigned a Business Identification Number (BIN) by The National Council for Prescription Drug Programs, Inc. (NCPDP).

Plan means the Plan Sponsor's program which provides vision coverage to Members.

Plan Design means a description of the Plan Sponsor's Plan related to vision coverages and limitations thereto, including the framework of policies, interpretations, rules, practices and procedures applicable to such coverages, required and signed by the Plan Sponsor and submitted to Contractor.

Plan Sponsor means the Civil Service Commission.

Plan Year means a calendar year, from October 1 through September 30

Protected Health Information (PHI) means individually identifiable health information related to the past, present, or future physical or mental health or condition of a Member; the provision of health care to a Member; or the past, present or future payment for the provision of health care to a Member, as more fully defined in 45 CFR §164.501 or otherwise considered confidential under federal or state law.

Provider means a vision provider or facility that provides Covered Product or Services.

Provider Network means that set of Providers with which the Contractor has contracted to provide Covered Products or Services to Members.



Retirant means a member who retires with a retirement allowance payable from reserves of the retirement system. The Public School Employees Retirement Act. MCL 38.1307(4).

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

S & P means Standard and Poor's credit rating agency.

Self-Insured means that the Plan Sponsor has financial responsibility for providing the funds used to pay Eligible Claims.

Services means any function performed for the Plan Sponsor as required in the Statement of Work.

SSAE 16 means an auditing standard developed by the American Institute of Certified Public Accountants (AICPA).

Solicitation Materials means materials produced by the Contractor that describe the Plan to Members or eligible individuals.

Speed of Answer means the amount of time that elapses once a Covered Person call is placed into the Customer Service queue to the time the Covered Person call is answered by a Customer Service Representative (CSR) equates the Speed of Answer.

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

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

Telephone Servicing Factor means the average time elapsed between when a caller elects to speak to a customer service representative and when the call is connected to a customer service representative.

Transparency means the full disclosure by the Contractor as to all of its sources of revenue that enables the Plan Sponsor (and its agents), as well as complete and full access to all information necessary to determine and verify that the Contractor has met all terms of this Contract and satisfied all Pass-Through Pricing requirements.

Unauthorized Removal means the removal of Key Personnel without the prior written consent of the Plan Sponsor.

Vision Plan means a plan to provide for vision screening, eye glasses, and contact lenses.

Work Product means 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.

Written Inquiries means any Inquiry, other than telephonic Inquiries, and includes letters, email, fax, or web portal.



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Contract for administration of post-employment Vision Benefit coverage for Members including Retirants, beneficiaries, COBRA participants, and their Dependents of the Michigan Public School Employees Retirement System (MPERS), administered by DTMB, Office of Retirement Services (ORS).

The Plan is to be effective and Contractor must begin implementing all services to Members, without interruption, January 1, 2014, unless the Plan Sponsor extends, at its sole discretion due to exigent circumstances, the implementation by up to three months. No payment will be made to the Contractor during the implementation period. The implementation period begins with the contract award date through the date the plan is effective.

1.012 Background

ORS administers the MPERS Plan which provides post-employment health coverage to non-Medicare eligible and Medicare eligible retirants, beneficiaries, and their dependents enrolled in the health plan. Health coverage is provided to eligible retired employees of local school districts, intermediate school districts, tax-supported community or junior colleges, and certain universities. Financing for MPERS is provided through public school employer contributions, School Aid Fund contributions, and Contract Holder premiums.

1.020 Scope of Work and Deliverables

1.021 In Scope

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

- A. Provide a fully functional Vision Plan for Members which encompasses and manages the needs of an older, retired population.
- B. Provide Covered Products or Services that meet or exceed current industry standards in the administration of Eligibility, Claims Processing and Member Service, and review and administration of Grievances and Appeals.
- C. Partner with the ORS to manage the Plan effectively and collaborate with the ORS to ensure the future success and ability of the Plan to continue to offer competitive vision coverage.
- D. Provide financial management, reporting, and analytical support as defined in this Contract that meet or exceed current industry standards.
- E. Ensure Transparency for all Services provided on behalf of the Plan Sponsor.
- F. Provide the Plan Sponsor with the lowest cost-per-service and highest discount levels that the Contractor has negotiated with Providers, either on its own behalf or that of its other customers for similar products covered under this Contract.

1.022 Work and Deliverable

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

(A) Plan Design

1. The Contractor must administer the plan in accordance with the Plan Design.
2. The Contractor must provide the Plan Design as shown in Attachment B.
3. The Contractor must provide all necessary administrative functions. This must include, but is not limited to:



- a) Producing materials and brochures educating members on the Vision program;
 - b) Assisting ORS with customized employee communications at no additional expense;
 - c) Processing claims;
 - d) Providing monthly, quarterly, and year-end reporting;
 - e) Providing exceptional customer service;
 - f) Support the Plan Sponsor's strategic planning process for future benefit enhancements and/or changes.
4. Eligibility must include eligible retired Public School Employees and their dependents and is detailed in Public Act 300 of 1980.
 5. No participant will lose eligibility for benefits through pre-existing condition exclusions as a result of a change in carrier at transfer or during the duration of the Contract.
 6. Contractor must provide support of strategic planning efforts and identifying areas of improvement upon request including, but not limited to, comparative analysis of Plan Sponsor's membership to other like groups across Contractor's book of business.
 7. The Plan Design is subject to change throughout the duration of this Contract. The Contractor must implement Plan changes as requested by the Plan Sponsor in a timely fashion, at no additional cost to the Plan Sponsor.
 8. The Contractor must provide independent ratings of financial strength to the Plan Sponsor such as an A.M. Best Financial Strength Rating.
 9. The Contractor must not balance bill members.

(B) Claims Services

1. Contractor must adhere to all Service Level Agreements pursuant to § 1.022 (G).
2. Contractor must administer claims in conformity with Plan Design as described in Section 1.022(A) and in compliance with any changes made to the Plan Design by the Plan Sponsor.
3. Contractor must only pay Eligible Claims.
4. Contractor must only charge against the Plan Sponsor's account Claim payments authorized under the Plan Sponsor's Plan Design.
5. Contractor must maintain confidentiality of all data collected by the Contractor, according to all applicable laws, rules and regulations.
6. Contractor must capture and store all Claim data elements involved in the processing or payment of Claims and be willing to transfer them to the Plan Sponsor's Data Management Vendor.
7. Contractor must have the ability to capture additional Claim data elements, if requested by the Plan Sponsor, and be willing to transfer to the Plan Sponsor's Data Management Vendor.
8. Contractor must provide a detailed Claims Paid Report to Plan Sponsor on an annual basis if requested by Plan Sponsor as described in section 1.042 (A).
9. Contractor must undertake responsibility for providing Organizational Determinations, including full and fair review of Claims Appeals by Members that have been denied either in full or in part. Organizational Determinations and Appeal decisions must be communicated to Members within 30 days of Contractor's receipt of the Appeal or request for Organizational Determination.



10. The Contractor's system must comply with HIPAA. Contractor must provide Plan Sponsor with an annual attestation that it meets this Requirement.
11. Contractor's Claims payment system must be able to identify fraud and abuse.
12. Contractor must have procedures for handling overpayments and recoveries.
13. Contractor must provide the State access to all back-up source materials, reports, books, records, computer programs, and all other information and documentation relating to each plan, as reasonably required so that the State and/or its designated officers, agents and accounts, can conduct a financial examination and/or audit of the plans.

(C) Member Support

1. Contractor must adhere to all requirements listed below and, where applicable, must meet or exceed all Service Level Agreements pursuant to § 1.022 (G).
 - (a) First Call Resolution: 95.00% or greater of Member calls to Contractor's toll-free telephone line must be resolved within 24 hours of a Customer Service Representative's receipt of the call. A call is considered unresolved if a Member calls Contractor's toll-free telephone line with the same 'reason for call' within the immediately subsequent five day period. Members following up on same issue within seven calendar days cannot be considered resolved.
 - (b) Average Speed of Answer: On a monthly basis, all calls must be answered within an average of 30 seconds or less.
 - (c) Telephone Servicing Factor: On a monthly basis, 85.00% of calls must have less than 30 seconds elapse between when a caller elects to speak to a customer service representative and when the call is connected to a customer service representative.
 - (d) Response Time--Blockage Rate (busy signal): The monthly blockage rate must not exceed 2.00%. Blockage is defined as a caller receiving a busy signal.
 - (e) Abandoned Calls: The monthly call abandonment rate must not exceed 3.00% after being connected for at least 40 seconds. Abandoned calls are those Member calls which terminate (i.e., Member hangs up before the call is answered) after a caller has selected a service option from the available menu and is in the queue for that option.
 - (f) Written Inquiry Resolution: The Contractor must respond to 95.00% or more of Written Inquiries within five Business Days of receipt; 100.00% of all Member Written Inquiries must be resolved within 30 Calendar Days. Written Inquiries will include those forwarded to the Contractor by the Plan Sponsor and the receipt date will be considered the date the Written Inquiry is received by the Contractor.
2. Contractor must provide a Customer Service call center, where it will maintain staff dedicated to supporting the needs of the Plan Sponsor's Members. The call center must be in the United States of America, but the State prefers that the call center is located in Michigan. The Customer Service call center must have, at a minimum:
 - (a) Single front-end toll-free dedicated telephone number with touch-tone routing (if necessary) for Customer Service staff to respond to Member requests for participating Provider locations, for questions on Claims and access, and complaints about Providers and Services.
 - (b) A customer Service system scalable to future demand.



- (c) An advanced telephone system that provides the Plan Sponsor with management tracking and reporting capabilities. The Contractor must adhere to all reporting standards pursuant to § 1.042.
 - (d) A voice response system with a user-friendly menu.
 - (e) Information on how to access Customer Services must be clearly communicated in all Plan specific booklets and newsletters and Identification Cards.
 - i. Contractor should attempt to resolve Member’s telephonic issues during the initial contact with the Member.
 - ii. For those issues not resolved immediately, Contractor must send Members a written response to their issues within five Business Days of receipt of the call or Written Inquiry. This response must either resolve the outstanding issue(s) or inform the Member as to when resolution can be expected.
3. Contractor must provide web-based support to the Plan Sponsor and its Members. This must be a Plan-specific website dedicated solely to the Plan Sponsor and Members. The web-based system must include, but not be limited to, the following:
- (a) Capability to provide Members with secure access to information specific to their own Claims and enrollment.
 - (b) Ability to list Providers based on accessibility to Member’s home address or zip code.
 - (c) Capability to answer Member questions about the Plan (Q&A).
- Contractor must be able to provide Members access to designated electronic Plan-specific documents on the Contractor’s Plan-specific website.

(D) Provider Network

1. The Contractor must manage and maintain a national network of Providers in areas where Members reside. This network must provide high quality service and control and reduce the cost of vision care.
2. Contractor must have and use a valid process to credential, monitor, and re-credential Network Providers.
3. Contractor must be able to add Providers to the Provider Network.
4. Contractor must support Provider access to Protected Health Information (PHI) by means of a secured Internet portal.
5. For a self-funded arrangement, Contractor must provide Pass-Through Pricing to Plan Sponsor.
6. Contractor must not charge Plan Sponsor or any Member any amount above that which is paid to the Provider under the terms of the Contract between the Contractor and the Provider.
7. The Contractor must have a process in place to audit Network Providers for compliance with contractual terms and ensure the accurate administration of the Vision Plan.
8. The Contractor must maintain a provider network that meets or exceeds the requirements as noted in the table below:
 - (a) Optometrists
 - (b) Ophthalmologists
 - (c) Retail Locations



9. The Contractor must provide access to vision Providers based on the following criteria:

Provider Type	Urban Members	Suburban Members	Rural Members
Optometrists	1 in 7.5 miles	1 in 15 miles	1 in 25 miles
Ophthalmologists	1 in 10 miles	1 in 20 miles	1 in 30 miles
Retail Locations	1 in 7.5 miles	1 in 15 miles	1 in 25 miles

Definition of Urban, Suburban, and Rural:

Urban: > 3,000 population per square mile
Suburban: 1,000 - 3,000 population per square mile
Rural : < 1,000 population per square mile

(E) Member Communications Materials and Meetings

1. Communication Materials

- (a) Contractor must prepare and distribute, at its own cost, announcements, letters, notices, brochures, forms, Identification Cards, Benefit Guides, postage, and other supplies and Services for distribution to Members.
- (b) Customized Member communications must be provided, by Contractor to Members, at no additional charge and are subject to the Plan Sponsor’s approval. This also includes co-branding materials with the name of Contractor and Plan Sponsor, where desired by Plan Sponsor.
- (c) All communication materials must be approved by the Plan Sponsor in advance of distribution. All communication materials presented to Plan Sponsor for approval must allow at least seven business days for review and editing. This applies to all information developed, provided, and/or distributed by Contractor to Members about the Plan (including those placed on the Contractor’s Plan Sponsor-specific website) including, but not limited to:
 - (1) Plan Sponsor-specific welcome kit including a summary of benefits for currently enrolled Members (approximately 254,000 each), and for new Members throughout the duration of this Contract (approximately 20,000 each year). It must also be available upon request by members. These materials must meet the following criteria:
 - (i) Display of identifying logo designated by the Plan Sponsor
 - (ii) Be printed in large type readability (e.g., equal or equivalent to Arial 12 point font size)
 - (2) Quarterly submission to Member newsletter published and distributed by the Plan Sponsor’s Health Plan informing membership of current events, vision health and wellness, and any plan updates.
- (d) Contractor must provide content for Plan Sponsor’s quarterly Member newsletter in collaboration with the Health Plan, Dental Plan, and PBM contractors.
- (e) Explanation of Benefits (EOB) that details charges, Approved Amounts, copays, outstanding benefit limits and contact information for following up with Inquiries, Grievances and/or Appeals. It is acceptable to the Plan Sponsor if EOBs are provided electronically and only sent in hard-copy form upon Member request.



- (f) Contractor must not sell email addresses or demographic information of Members and can only disclose email addresses or demographic information to partners with the approval of our Members.

2. Communication Meetings:

- (a) Contractor must provide speakers at meetings designated by Plan Sponsor at no additional charge to the Plan Sponsor. Meeting requests may vary from year-to-year, but will include up to 10 day-long sessions out-of-state (primarily Florida and Arizona, but could include other U.S. states, as directed by Plan Sponsor, based on Member's geographic location) and up to 13 day-long sessions in Michigan, of which three may be in the Upper Peninsula. All meetings will require the combined participation of the Contractor, up to two representatives from MPSERS, the Health Plan contractor, the PBM contractor, the Dental Plan contractor, and HMO contractors as deemed appropriate by the Plan Sponsor. Vision Plan contractor will be responsible for their own travel arrangements, but the planning and organizing of these meetings is the responsibility of the Health Plan provider. Associated cost for these meetings is to be shared equally with the other MPSERS contractors.
- (b) In addition to MPSERS' designated meetings, Contractor may receive requests for speakers from Member support organizations. A reasonable effort must be made to accommodate requests for in-State meetings at no charge to the retiree support organizations or Plan Sponsor.

3. Member Satisfaction:

- (a) Member Satisfaction: Contractor must measure Member satisfaction within the Plan Year for the current Plan Year and report results to the Plan Sponsor. All areas where Member satisfaction levels are low must be remedied by the Contractor within a timeframe acceptable to the Plan Sponsor. Sample sizes of responses must be sufficient to produce statistically valid results. The methodology for gauging and monitoring this requirement, including the survey instrument and scoring methodology, is subject to Plan Sponsor approval. This survey must be done on a Plan Sponsor specific basis.

(F) Enrollment and Eligibility

Plan Sponsor is responsible for transmitting eligibility and enrollment information for Members. Plan Sponsor has the sole authority to determine the effective date of a Member, including retroactive adjustments.

Eligibility information for Members will be transferred to Contractor from Plan Sponsor by a secure electronic medium including all necessary information with respect to current enrollees at a date to be determined by Plan Sponsor. The Plan Sponsor will provide an initial enrollment file within 30 days of the Contract award date using the 834-HIPAA required format.

Payment of Administration Fee/premiums is predicated on the enrollment records of the Plan Sponsor.

1. Contractor must comply with all applicable requirements of HIPAA, as amended.
2. Contractor must maintain Member information. Any changes, additions, or terminations of Member enrollment information or changes or additions to Member demographic information (including email addresses) must originate from, or be directed back to, the Plan Sponsor. Contractor must not make any changes to Member information that would lead to Contractor and Plan Sponsor having different information for the same Member.
3. Contractor must maintain a Member's enrollment in the Plan unless otherwise notified by Plan Sponsor regardless of notifications from any other source.



4. Contractor must support Plan Sponsor in confirming Member Eligibility.
5. Contractor must have the capability to accept electronic data transfer on a weekly basis from Plan Sponsor, in a HIPAA compliant 834 format, inclusive of all fields contained in **Attachment C** and which is provided through a data exchange gateway. Contractor must also have the capability to conduct full enrollment audits on an as-needed basis. Contractor must be able to terminate by absence. Contractor must work with Plan Sponsor in the implementation of secure data transfers for all exchanges.
6. Contractor is responsible for any changes, and any associated costs therein, to their systems or processes required to support the receipt and processing of Plan Sponsor's enrollment files. Contractor must work with Plan Sponsor to develop a timeline for implementation and testing of any system changes. Contractor is expected to maintain a testing environment for such purposes.
7. Enrollment files must be processed and Member eligibility and/or enrollment update completed within two Business Day of notification from the Plan Sponsor, or its designee, with confirmation of changes submitted to Plan Sponsor. Contractor must accept enrollment files on a weekly basis, more frequently if required by Plan Sponsor.
8. Contractor must have validation edits in place to ensure, for each data load, that all fields are properly populated and readable. One-hundred percent of all accurate records that pass Contractor's validation edits must be uploaded according to the Plan Sponsor's schedule within two Business Days. Any records that do not pass Contractor's validation tests must be reported to Plan Sponsor within two Business Days after the file has been uploaded. All discrepancy reporting must be in the format defined by the Plan Sponsor.
9. Upon verbal notification from Plan Sponsor, Member eligibility and/or enrollment updates must be completed in real-time.
10. Contractor must use the Plan Sponsor's data exchange gateway for all electronically sent administrative communications that include PHI, including transport of electronic files containing confidential information.
11. Contractor must provide to the Plan Sponsor, by means of a secured Internet portal, access to the system used to maintain Eligibility.
12. Contractor must provide to Providers, by means of a secured Internet portal, access to Eligibility.

(G) Performance Guarantees / Service Level Agreements (SLAs)

Contractor must ensure that the SLAs are measurable using the Contractor's standard management information systems. Every SLA must have a report provided that is deemed adequate by the Plan Sponsor to verify the SLA has been met; SLAs without a corresponding report will be deemed unmet and subject to the penalty. Samples of reports that will be used for SLA compliance are required in advance to be deemed adequate. The Plan Sponsor reserves the right to independently verify the Contractor's assessment of its performance, either by State employee or third party review. Disagreements regarding SLAs will be subject to Dispute Resolution (§ 2.190).

Within 45 Days after the end of each calendar quarter, the Contractor must provide the Plan Sponsor with a report assessing the Contractor's performance under each SLA for the Plan Sponsor, and provide payment for any applicable penalties to the Plan Sponsor. Any metric that is reported must be accompanied by supporting documentation.

The following SLAs are related to ongoing Services and will apply throughout the duration of the Contract, including any optional renewal periods (if exercised). SLAs are for all Services provided under this Contract for the Plan Sponsor.



SLA # 1
Eligibility Uploads
Guarantee
<p>One-hundred percent of all accurate records that pass Contractor’s validation edits must be uploaded according to the Plan Sponsor’s schedule within two Business Days of receipt (as defined in 1.022G).</p> <p>The Contractor must measure its performance on this SLA on a monthly basis and report on a quarterly basis. The SLA report must show weekly activity defined as the number of records uploaded, number of records not accepted, and the timeframe for presenting the discrepancy reports to the Plan Sponsor.</p> <p>Any records that do not pass the Contractor’s validation test must be reported to the Plan Sponsor within two Business Days after the file has been uploaded.</p>
Penalty
<p>The penalty for failure to meet this SLA is 1.00% per month not met, of the total month’s Administrative Fees paid to the Contractor by the Plan Sponsor for each month that the SLA is not met.</p>

SLA # 2
Identification Cards
Guarantee
<p>ID cards for all new Contract holders that pass validation edits of the eligibility upload with effective dates starting more than 14 days from the eligibility upload must be mailed within 10 days.</p> <p>ID cards for all new Contract holders that pass validation edits of the eligibility upload with effective dates starting 14 days or less from the eligibility upload must be mailed within five days.</p> <p>The Contractor must measure monthly and report its performance on this SLA on a quarterly basis. Performance must be substantiated by documentation providing proof of receipt date and mailing date.</p> <p>Accuracy must be measured by sampling ID card product ion to ensure 100.00% accuracy of information.</p>
Penalty
<p>The penalty for failure to meet the Identification Card Timeliness SLA is 1.00% of the monthly Administration Fee for each month missed.</p> <p>The penalty for failure to meet the Identification Card Accuracy SLA is 1.00% of the monthly Administration Fee for each month missed.</p>

SLA # 3
Contractor Performance Evaluation
Guarantee
<p>Plan Sponsor will complete the annual satisfaction survey in January respective to the preceding year. Survey tool and scoring criteria are enclosed as Attachment D. The results of this survey will be shared with Contractor. A 5.00-point scale will be utilized. Contractor must achieve an overall score of at least 4.00. An overall score under 3.50 will result in an additional penalty.</p>
Penalty
<p>The penalty for failure to meet an overall score of 4.00 will result in the assessment of 2.00% of Contractor’s annual Administration Fee. Failure to score at least 3.50 will result in an additional 1.00% penalty of Contractor’s annual Administration Fee.</p>



SLA # 4
Member Satisfaction Surveys
Guarantee
One random sample Member survey must be completed annually specific to the Plan Sponsor's population at no additional cost to the Plan Sponsor.
The survey must be completed within each Plan Year for the Plan Year. The survey instrument must be presented to the Plan Sponsor for prior approval of questions and scoring methodology prior to deployment. The satisfaction survey must produce a score of 85.00% or greater. The respondent pool must have a sample size sufficient to produce a 95.00% confidence interval with a margin of error of not greater than +/-3.00%. Survey results must be available to the Plan Sponsor within the Plan Year.
Penalty
The penalty for failure to produce 85.00% survey satisfaction is 2.00% of Contractor's annual Administration Fee. Failure to produce 80.00% will result in an additional 1.00% penalty of Contractor's annual Administration Fee.
Failure to conduct the survey as required in the Guarantee will result in a 3.00% penalty of Contractor's annual Administration Fee.

SLA # 5
Customer Service Call – Average Speed of Answer
Guarantee
On a monthly basis, all calls must be answered within an average of 30 seconds or less.
Contractor must measure monthly and report their performance on this SLA on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.00% per month not met, of the total monthly Administration Fees paid to the Contractor by the Plan Sponsor for each month that the SLA is not met.

SLA # 6
Customer Service Call - Telephone Servicing Factor
Guarantee
On a monthly basis, 85.00% of calls must have less than 30 seconds elapse between when a caller elects to speak to a customer service representative and when the call is connected to a customer service representative. Eighty five percent of calls must be in queue for service (left IVR) less than 30 seconds.
Contractor must measure its performance on this SLA on a monthly basis and report on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.00% of Contractor's Administration Fee for the month missed.



SLA # 7
Customer Service Response Time - Percent of Calls Abandoned
Guarantee
The monthly call abandonment rate must not exceed 3.00% (determined by the number of calls abandoned by the total number of calls).
Contractor must measure monthly and report their performance on this SLA on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.00% of Contractor's monthly Administration fee for each month missed.

SLA # 8
Customer Service Response Time to Written Inquiries
Guarantee
Contractor must resolve 95.00% of all Member Written Inquiries within five Business Days of receipt; 100.00% of all Written Inquiries must be resolved within 30 Calendar Days. Written inquiries will include those forwarded to the Contractor by the Plan Sponsor.
Contractor must measure monthly and report their performance on this SLA on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.00% of Contractor's administrative fee for each month missed.

SLA # 9
Timely Production of Complete Management Reports
Guarantee
Contractor must provide complete quarterly reports within 45 Days of the end of the quarter, and annual reports within 90 days of Plan year end.
The Contractor must measure and report its performance on this SLA on a quarterly and annual basis, respectively.
Penalty
For quarterly reports, the penalty for failure to meet the reporting requirements of this SLA is 1.00% per quarter not met, of the total quarterly Administrative Fee paid to the Contractor by the Plan Sponsor for each quarter that the SLA is not met.
For annual reports, the penalty for failure to meet the reporting requirements of this SLA is 1.00% of the total annual Administrative Fee paid to the Contractor by the Plan Sponsor for.



SLA # 10
Appeals Reporting Requirements
Guarantee
The Contractor must administer the Appeals Policies that are compliant with accreditation agency requirements.
Reporting will include the response time of Appeal processing (30 Days for pre-service; 60 Days for post-service).
Reporting for appeals to include Member count, nature of Appeal, timeliness of handling, and outcome (Member resolution).
The Contractor must measure its performance on this SLA on a quarterly basis and report on an annual basis.
Penalty
The penalty for failure to meet the appeal response time requirements of this SLA is 1.00% per quarter not met, of the total quarterly Administrative Fee paid to the Contractor by the Plan Sponsor for each quarter that the SLA is not met.

SLA # 11
Timeliness of Data Transmission to Plan Sponsor's Data Management Vendor
Guarantee
Pursuant to Section 1.042, Contractor must agree to deliver Claim data files to Plan Sponsor's Data Management Vendor in an agreed-upon format. Delivery of data files—with all required fields correctly populated—must be completed within 15 Days after the close of each month.
Penalty
The penalty for failure to meet the SLA for monthly reports is 1.00% of Contractor's monthly Administration Fee for each month not met.

SLA # 12
Financial Error Rate
Guarantee
The financial error (as defined as the number of claims containing a financial error divided by the total number of claims) must not exceed 1.00%.
Contractor must measure monthly and report its performance on this SLA on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 2.00% for each month missed of Contractor's monthly Administration Fee.

SLA # 13
Non-financial Error Rate
Guarantee
The non-financial error rate (as defined as the number of claims with a non-financial error divided by the total number of claims) must not exceed 1.00%.
Contractor must measure monthly and report its performance on this SLA on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.00% for each month missed of Contractor's monthly Administration Fee.



SLA # 14
Claims Processing Time
Guarantee
95.00% of all claims must be processed within 10 Business Days.
100.00% of all claims must be processed within 15 Business Days.
Contractor must measure its performance on this SLA on a monthly basis and report on a quarterly basis.
Penalty
The penalty for failure to meet this SLA is 1.50% for each month missed of Contractor's Administration Fee for the month.

(H) Audits

The Plan Sponsor intends to periodically (at least once every two years) perform on-site audits of Contractors. Contractor must make records associated with the administration of the Plan available to, and must cooperate with, such auditors and audits as the State of Michigan or the Plan Sponsor may designate. The Contractor must maintain and make available to the State's auditors one or all of the following claim source documents for the audit:

1. Paper claim submission – Original document or microfilm or print-out of imaged claim document.
2. Optical Character Recognition (OCR) – Copy of original paper document.
3. Electronic Data Interchange (EDI) – Documentation of original submitted data (in a readable format) as it appeared when received by administrator.

The State's current approach has been to audit two Plan Years at one time, conducted within 12 months of the end of the second year audited. The State reserves the right to change this approach without prior notice.

1. Contractor must comply with and conduct an annual external audit verifying compliance with current NIST 800-53, moderate security controls. All audit findings must be reported to the Plan Sponsor and promptly resolved subject to review by the Plan Sponsor.
2. Contractor must comply with and conduct an external SSAE 16 audit. All audit findings must be reported to the Plan Sponsor and promptly resolved subject to review by the Plan Sponsor.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

Pursuant to § 2.060, *Contract Management*, Contractor must provide sufficient staffing resources for completion of the tasks and services as defined in this Contract. As part of its project/work-plan, Contractor must also provide a detailed description of its company accreditations, licenses, and requirements listed below, and a detailed description of its key staff, additional staff, and its Subcontractors as related to this project, for final review and approval by the respective, assigned Contract Compliance Inspector (CCI), as follows:

(A) Key Personnel / Staff:

Key Personnel who are NOT located in Michigan must be made available to the Plan Sponsor at Contractor's Michigan office (or at another location in Michigan as approved by Plan Sponsor or CCI, as designated by the State) on a reasonably frequent basis (as determined or scheduled by Plan Sponsor or CCI, as designated by the State). This includes, but is not limited to: all Member meetings and Board meetings, as well as onsite meetings with Plan Sponsor staff at a frequency determined by the Plan Sponsor. The Bidder must assign not less than the following Key Personnel, subject to the requirements in § 2.062:



Senior Account Manager (SAM)'s role and responsibilities must include:

- a. Serving as the single point of accountability for all projects initiated between the Contractor and the Plan Sponsor for management of the Contractor's Account Team;
- b. Availability at a location in Michigan to be determined by the Plan Sponsor and availability upon Plan Sponsor's request;
- c. Authority to make day-to-day decisions regarding service issues;
- d. Ability within the Contractor's organization to obtain the use of Contractor's resources, both direct and indirect, as necessary;
- e. Designating one back-up to the SAM, whose role and responsibilities must include involvement in account management and who is capable of performing the responsibilities of the SAM in the event that the SAM is unavailable. The Contractor's SAM back-up must be familiar with all specific requirements of this Contract. This back-up role may be filled by another key-staff person.

SAM: Patricia Soyemi

Back-up SAM: Karen Channing

(B) Additional Staff:

Additional staff assignments are not considered key, but their roles are considered an integral complement to the roles, responsibilities, and abilities of the Contractor's key-staff. These roles may include not only the staff roles listed below, but also may include other IT-System Technicians, Security Specialists, Accounting or Audit staff, Administrative support staff, etc. Contractor must include a detailed description of these additional roles in its project / implementation plan to be approved by the CCI and Plan Sponsor:

1. Enrollment and Customer Service Specialist(s)
2. Optometrist or Ophthalmologist

(C) Subcontractor(s):

Subcontractors are not considered key, but their roles are considered an integral compliment to the roles, responsibilities, and abilities of the Contractor's key-staff and additional staff. Pursuant to § 2.044, *Subcontracting by Contractor*, delegation of any portion of the services is subject to written, pre-approval by the State, and Contractor must include a detailed description of these roles and responsibilities in its project / implementation plan.

(D) Additional Staff Responsibilities

1. Contractor must participate in meetings with Plan Sponsor as determined by Plan Sponsor. The Contractor must review all open projects and present the status, progress and results of each project. The Contractor must provide data and cost analysis upon request.
2. Quarterly meetings must be held at a location as determined by the Plan Sponsor, and additional meetings may be held each year, for the purpose of:
 - a. Contractor's performance on Service Level Agreements. The Contractor must meet with the Plan Sponsor to review plan performance, report on progress, and identify improvement opportunities.
 - b. Contractor's comprehensive review of the cost and utilization experience of the Plan, including, but not limited to:
 - i. Proposed solutions to performance variances (such as cost, utilization, and administrative performance and their root causes).
 - ii. Working collectively with Plan Sponsor's other benefits administrators (such as health plan, prescription drug plan, and Dental Plan) on joint Plan improvement projects.



3. The Contractor must participate in strategic planning sessions to provide the following:
 - a. Data analysis with commensurate recommendations and cost-benefit analysis to provide support for proposed plan modifications.
 - b. Review of changes in the market and identification of emerging trends.
 - c. Provide seminars on related topics for the Plan Sponsor.
4. The Contractor must promptly notify the Plan Sponsor of administrative changes in the Contractor's systems or procedures that impact the Plan Sponsor and/or Members.

1.040 Project Plan

1.041 Project Plan Management

- (A) Contractor will carry out this project under the direction and control of the ORS; all transition and implementation plans are subject to the approval of the Plan Sponsor and the CCI.
- (B) There must be continuous liaising with the Contractor during this Contract, particularly during any process involving ORS partners or the Plan Sponsor. The ORS CCI and Plan Sponsor will meet with the Contractor's SAM for initial review of the Contractor's implementation plan prior to beginning service delivery and then periodically, as needed. The meetings will provide for reviewing progress and providing necessary guidance to the Contractor regarding the timing of activities and solving issues or problems.
- (C) The project plan, the implementation plan, and the corresponding timeline or calendar must describe in detail:
 1. All major project milestones;
 2. The anticipated outcomes for each milestone;
 3. Detailed discussion on how to manage a possible transition process from the current Contractor, if applicable; and
 4. All tasks, duties, or responsibilities associated with implementation on January 1, 2014.
- (D) The plan must also describe in detail:
 1. Contractor's project management approach, including identifying methods, tools, and processes intended for oversight and completion of the implementation.
 2. Any anticipated issues/changes, when they may arise, and how those issues will be conveyed to the appropriate State staff, and include suggested resolution or risk mitigation strategies to the issue(s).
 3. Final Disruption Analysis and a plan for averting disruptions and communicating any disruptions to affected members.
 4. A detailed protocol and escalation communication process; the plan must also provide escalation procedures and contact information for issues that may need to be escalated above the SAM.
 5. Any additional information or considerations for timely implementation pursuant to the Contract requirements.



- (E) At a minimum, the following milestones and timeframe(s) must be accomplished and completed by the Contractor, unless otherwise approved by the CCI (via the project plan, etc.):
1. A detailed calendar or schedule for the Implementation Period;
 2. Final draft project plan submitted to the CCI and Plan Sponsor within five State-business days from Contract award date, including Contractor's project plan management approach and detailed explanation of any identifying methods, tools, and processes, intended for oversight and completion of the implementation for January 1, 2014;
 3. Final approval of Implementation Plan obtained from the CCI 14 days after submission of draft.

1.042 Reports

(1) Contractor must provide proper and timely analysis and reports, in a format as determined by the Plan Sponsor.

(A) Quarterly Reports

The following reports must be produced within 45 calendar days of the end of the quarter:

- (a) Claims Paid Report, if requested by Plan Sponsor, showing number of services, charges, Approved Amounts, copays, and plan payments, with the following additional splits (separate reports for each):
 - (1) By participating and non-participating providers
 - (2) By Contract Holder and dependents, by major categories or service (exams, frames, single vision lenses, bifocal lenses, trifocal lenses, medically necessary contacts, non-medically necessary contacts, all other)
 - (3) Turnaround time in payment of claims
 - (4) Professional reviews and/or audits (Including the SSAE 16)
- (b) Performance Standard Guarantee Report detailing and providing backup for the Service Level Agreements.
- (c) Appeal reporting that details the count, appealed issue, date received by Contractor, date addressed by Contractor, and results of the Appeal.
- (d) Grievance reporting that details the count, grieved issue, and any action items taken to resolve the situation.
- (e) Quarterly Claims and Service Experience report for meetings with Plan Sponsor.

(B) Annual Reports

The following reports must be produced within 90 calendar days of the end of the year:

- (a) Management Summary Report, full financial and enrollment experience, including the items shown in monthly and quarterly reports, summarized to an annual basis.
- (b) Claims Paid Report, if requested by Plan Sponsor, showing number of services, charges, Approved Amounts, copays, and plan payments, with the following additional splits (separate reports for each):



- (1) By participating and non-participating providers
 - (2) By subscriber and dependents, by major categories or service (exams, frames, single vision lenses, bifocal lenses, trifocal lenses, medically necessary contacts, non-medically necessary contacts, all other)
 - (3) Turnaround time in payment of claims
 - (4) Professional reviews and/or audits (Including the SSAE 16)
- (c) Coordination of Claim Activity Report, subdivided by claims coordinated with the State-sponsored Health Plan.
- (d) Detailed Claims Report, of detailed claims data paid for the year.
- (2) Contractor must agree to work with the Data Management Vendor in a manner inclusive of, but not necessarily limited to, the following:
- 1. Contractor must provide the Data Management Vendor claims data as described in Attachment D. This information is to be provided to the Data Management Vendor monthly and by a date no later than the 15th Day from the last day of the reporting quarter.
 - 2. Data must be securely maintained for the duration of this Contract. Upon termination or expiration of the Contract, Contractor must deliver all data to the Data Management Vendor within 10 Days.
 - 3. Contractor is responsible for all expenses, including the cost of any subcontractors, related to producing the data and providing it to the Data Management Vendor. This includes any costs associated with resubmissions and processing costs incurred by the Data Management Vendor due to the transmittal of incomplete, inaccurate, or unreadable data files related to the Plan Sponsor.
 - 4. Contractor is required to work with the Data Management Vendor, including developing any process improvement procedures needed to correct all issues that impede or prevent accurate data reporting from the database.
- (3) Plan Sponsor, or its designee, reserves the right to examine the Contractor's database for the Plan to determine whether the Contractor is in compliance with the data requirements of this Contract.

1.050 Acceptance

1.051 Criteria

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

- Timeliness of meetings and report completion;
- Adherence to Implementation Plan and approved calendar;
- Adherence to Performance Guarantees / Service Level Agreements;
- Demonstrated considerable knowledge and expertise of health care administration programs.

1.052 Deleted – N/A

1.060 Pricing

1.061 Pricing

For authorized Services and Price List, see Attachment A.

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



Contractor will not charge the Plan Sponsor for any bifocal lens claim associated with a progressive lens claim, or for any progressive lens claim associated with bifocal lens claim. Progressive lens claims are processed under this Contract with a \$0.00 Plan Sponsor charge. As a result, Contractor's charge to the Plan Sponsor for bifocals associated with progressive lenses must be \$0.00.

Progressive lenses include, but are not limited to, the following procedure codes:

- V2781
- V278122
- V278125
- V2781TG

Contractor must provide quarterly reports that identify all progressive lens charges and any associated bifocal lens charges. Reports must include, at a minimum: member ID, date of service, location of service, submitted amount, plan pay (amount charged to Plan Sponsor), and member copay for each claim.

1.062 Price Term

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

1.063 Tax Excluded from Price

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

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

1.064 Deleted – N/A

1.070 Additional Requirements

1.071 Records Management and Retention

- (1) The Contractor must have a records management policy in place.
- (2) The Contractor must have a process in place to securely store and maintain physical and electronic records.
- (3) The Contractor must ensure that only authorized staff has access to records.
- (4) The Contractor must have a disaster recovery plan.
- (5) The Contractor must ensure that all staff or other personnel that handles records are trained on the policies and procedures for keeping the records secure and that retention and disposal is handled appropriately.
- (6) The Contractor must perform routine self-audit and monitoring activities of their records management program, including monitoring policies and procedures to ensure compliance.

1.072 Additional Terms and Conditions

(a) The Contractor must have, in place, a security plan that details the security requirements of the information system, identifies security controls that satisfy those requirements, and enables periodic reviews and/or timely revisions responsible to system and provide to the CCI updates and organizational changes.

(b) The Contractor must comply with the compliance requirements of all State and federal Laws, including but not limited to:

- Health Insurance Portability and Accountability Act (HIPAA);
- Financial Modernization Act of 1999 (Gramm-Leach-Bliley)



- Michigan Identity Theft Protection Act, MCL 445.61 et seq;
- Michigan Social Security Number Privacy Act, MCL 445.82 et seq.
- National Institute of Standards and Technology (NIST) publications;
- Control Objectives for Information and Related Technology (COBIT);
- Payment Card Industry Data Security Standard (PCI DSS)

(c) The Contractor must annually conduct assessments of risks and threats for unauthorized access, use, or disruption on information systems that support the Plan Sponsor.

(d) The Contractor must protect the confidentiality, integrity, and availability of State of Michigan data that is generated, accessed, modified, transmitted, stored, disposed, or used by the system, irrespective of the medium on which the data resides and regardless of format (such as in electronic, paper or other physical form).

(e) The Contractor must implement measures to provide physical and environmental protection and accountability for tapes, diskettes, printouts, and other media containing Agency personal, confidential and sensitive information to prevent the loss of confidentiality, integrity, or availability of information including data or software, when stored outside the system.

(f) The Contractor must limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems) and to the types of transactions and functions that authorized users are permitted to exercise.

(g) The Contractor must have authentication controls and account management (for end-user and administrator accounts) for the application/system, including, but not limited to:

- Account lock out after specified number of failed login attempts;
- Forced use of strong passwords;
- Forced periodic password change;
- Use of unique user ID;
- Role-based permissions

(h) The Contractor must be responsible for ensuring application controls are in place and functioning properly within their organization.

(i) The Contractor must have a system auditing policy that creates, protects, and retains information system audit log records.

(j) The Contractor must have a system of controls in place when changes (including emergency / non-routine and configuration) to existing IT resources are logged, authorized, tested, approved, and documented.

(k) The Contractor must have, in place, a contingency plan to detect and respond to incidents including those involving potential unauthorized access, use, or disclosure of protected information.

(l) The Contractor must have a system of controls in place to restrict physical access to their organization's facilities and data centers to authorized personnel.

(m) The Contractor must provide security awareness training required for their employees at minimum on a semi-annual basis.

(n) The Contractor must have security controls employed for web application(s) to provide a high level of security to protect confidentiality of data transmitted over the public internet.

(o) The contractor must have a copy on file of their personnel security policy and related documents describing hiring practices that include mandatory background check procedures



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

The Contract is for a period of three years beginning January 1, 2014, through December 31, 2016. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

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

2.003 Legal Effect

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

2.006 Order of Precedence

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

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



2.007 Headings

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

2.008 Form, Function & Utility

If the Contract is for use of more than one 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

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

Lance Kingsbury
DTMB – Procurement
kingsburyL@michigan.gov
Phone: 517-241-3768

2.022 Contract Compliance Inspector

After DTMB-Procurement receives the properly executed Contract, it is anticipated that the Chief Procurement Officer, in consultation with ORS, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of the Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB Procurement.** The CCI for the Contract is:



Steve Crippen
Office of Retirement Services
Department of Technology, Management and Budget
7150 Harris Drive
Dimondale, MI 48821
crippens@michigan.gov
Phone 517-322-6857
Fax 517-322-6145

2.023 Project Manager

The following individual will oversee the project:

Mark Howard
Office of Retirement Services
Department of Technology, Management and Budget
7150 Harris Drive
Dimondale, MI 48821
howardm4@michigan.gov
Phone 517-636-0147
Fax 517-322-6145

2.024 Change Requests

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

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

Change Requests:

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

2.025 Notices

Any notice given to a party under the Contract must be deemed effective, if addressed to the State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third Business Day after being sent by U.S. mail, postage pre-



paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

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

2.029 Assignments

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

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

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

2.030 General Provisions

2.031 Deleted – N/A

2.032 Media Releases

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

2.033 Contract Distribution

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

**2.034 Permits**

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

2.035 Website Incorporation

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

2.036 Future Bidding Preclusion

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

2.037 Freedom of Information

All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

2.038 Disaster Recovery

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

2.040 Financial Provisions**2.041 Fixed Prices for Services/Deliverables**

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

2.042 Adjustments for Reductions in Scope of Services/Deliverables

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

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General

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

(b) Each Contractor invoice must show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such



person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

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

(d) Contract Payment Schedule

1. Contractor request for performance-based payment.

The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the CCI. Unless otherwise authorized by the CCI, all performance-based payments in any period for which payment is being requested must be included in a single request, appropriately itemized and totaled.

2. Approval and payment of requests.

a) The Contractor is not entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The CCI must determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the Contract. The CCI may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion, which has been or is represented as being payable.

b) A payment under this performance-based payment clause is a contract financing payment under the Quick Payment Terms in **Section 1.061** of the Contract.

c) The approval by the CCI of a request for performance-based payment does not constitute an acceptance by the State and does not excuse the Contractor from performance of obligations under the Contract.

2.045 Pro-ration

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

2.046 Antitrust Assignment

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

2.050 Taxes



2.051 Employment Taxes

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

2.052 Sales and Use Taxes

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

2.060 Contract Management

2.061 Contractor Personnel Qualifications

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

2.062 Contractor Key Personnel

- (a) The Contractor must provide the CCI with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State reserves the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor must notify the State of the proposed assignment, must introduce the individual to the appropriate State representatives, and must provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State must provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel’s employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements and appropriate transition planning must be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.



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

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

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

2.064 Contractor Personnel Location

All staff assigned by Contractor to work on the Contract must perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel must, 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 must cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor must provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under the Contract with the requests for access.

2.067 Contractor Return of State Equipment/Resources

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

2.068 Contract Management Responsibilities

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



2.070 Subcontracting by Contractor

2.071 Contractor Full Responsibility

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

2.072 State Consent to Delegation

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

2.073 Subcontractor Bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment

The State must 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 must 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.

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 72 hours of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Standard

(a) Contractors that process, transmit or store credit/debit cardholder data, must adhere to the PCI Data Security Standards. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

(b) The Contractor must notify the CCI (within 72 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the Visa, MasterCard, Discover and state Acquirer representative(s), and/or a PCI approved third party to conduct a thorough security review. The Contractor must make the forensic report available within two weeks of completion. The review must validate compliance with the current PCI Data Security Standards for protecting cardholder data.

(c) The Contractor must properly dispose of cardholder data, in compliance with DTMB policy, when it is no longer needed. The Contractor must continue to treat cardholder data as confidential upon contract termination.

(d) The Contractor must provide the CCI with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standards. The Contractor must notify the CCI of all failures to comply with the PCI Data Security Standard.

2.100 Confidentiality

2.101 Confidentiality

Contractor and the State each acknowledge that the other possesses, and will continue to possess, confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable



federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under the Contract, is marked as confidential, proprietary, or with a similar designation by the State. "Confidential Information" excludes any information (including the Contract) that is publicly available under the Michigan FOIA.

2.102 Protection and Destruction of Confidential Information

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

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

2.103 Exclusions

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

2.104 No Implied Rights

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

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

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



2.112 Retention of Records

- (a) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this Contract (Audit Period).
- (b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.113 Examination of Records

- (a) The State, upon 10 days' notice to the Contractor, may examine and copy any of the Contractor's records that relate to this Contract any time during the Audit Period. The State does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor, or any Subcontractor that performs services in connection with this Contract.
- (b) In addition to the rights conferred upon the State in paragraph (a) of this section and in accordance with MCL 18.1470, DTMB or its designee may audit the Contractor to verify compliance with the Contract. The financial and accounting records associated with the Contract must be made available to DTMB or its designee and the auditor general, upon request, during the term of the Contract and any extension of the Contract and for three years after the later of the expiration date or final payment under the Contract.

2.114 Audit Resolution

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

2.115 Errors

- (a) If an audit reveals any financial errors in the records provided to the State, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of the Contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within 45 days of the last invoice on which the balance appeared or upon termination of the Contract, whichever is earlier.
- (b) In addition to other available remedies, if the difference between the State's actual payment and the correct invoice amount, as determined by an audit, is greater than 10%, the Contractor must pay all reasonable audit costs.

2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

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



- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under the Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under the Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under the Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in the Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into the Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Procurement.

2.122 Warranty of Merchantability

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

2.123 Warranty of Fitness for a Particular Purpose

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

2.124 Warranty of Title

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

2.125 Deleted – N/A

2.126 Equipment to be New

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



2.127 Prohibited Products

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

2.128 Consequences For Breach

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

2.130 Insurance

2.131 Liability Insurance

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

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

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

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

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

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

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

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

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

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

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

(k) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days' notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or require the Contractor to pay that cost upon demand.

(l) In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Michigan Attorney General.

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



(i) Commercial General Liability

Minimal Limits:

\$2,000,000.00 General Aggregate Limit other than Products/Completed Operations;
 \$2,000,000.00 Products/Completed Operations Aggregate Limit;
 \$1,000,000.00 Personal & Advertising Injury Limit; and
 \$1,000,000.00 Each Occurrence Limit.

Deductible maximum:

\$50,000.00 Each Occurrence

Additional Requirements:

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

(ii) Umbrella or Excess Liability

Minimal Limits:

\$10,000,000.00 General Aggregate

Additional Requirements:

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

(iii) Motor Vehicle

Minimal Limits:

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

(iv) Hired and Non-Owned Motor Vehicle

Minimal Limits:

\$1,000,000.00 Per Accident

Additional Requirements:

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

(v) Workers' Compensation Insurance

Minimal Limits:

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

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



Additional Requirements:

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

(vi) Employers Liability

Minimal Limits:

- \$100,000.00 Each Incident;
- \$100,000.00 Each Employee by Disease
- \$500,000.00 Aggregate Disease

Additional Requirements:

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

(vii) Employee Fidelity (Crime)

Minimal Limits:

- \$3,000,000.00 Employee Theft Per Loss

Deductible Maximum:

- \$50,000.00.00 Per Loss

Additional Requirements:

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

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

(viii) Professional Liability (Errors and Omissions)

Minimal Limits:

- \$1,000,000.00 Each Occurrence
- \$1,000,000.00 Annual Aggregate

Deductible Maximum:

- \$50,000.00 Per Loss

(ix) Medical Malpractice

Minimal Limits:

- (Small Provider)
- \$200,000.00 Each Occurrence
- \$600,000.00 Annual Aggregate

- (Large Provider)
- \$1,000,000.00 Each Occurrence
- \$3,000,000.00 Annual Aggregate

Deductible Maximum:

- \$5,000.00 Each Occurrence

Cyber Liability

Minimal Limits:

\$1,000,000.00 Each Occurrence
\$1,000,000.00 Annual Aggregate

Additional Requirements:

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

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

 (xi) Property Insurance

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

2.132 Subcontractor Insurance Coverage

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.131, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

2.133 Certificates of Insurance

Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents are listed as additional insureds as required. The Contractor must provide DTMB-Procurement with all applicable certificates of insurance verifying insurance coverage or providing, if approved, satisfactory evidence of self-insurance as required in Section 2.131, Liability Insurance. Each certificate must be on the standard "Accord" form or equivalent and **MUST IDENTIFY THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER.**

2.140 Indemnification**2.141 General Indemnification**

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

2.142 Code Indemnification

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

2.143 Employee Indemnification

In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its Subcontractors, the indemnification obligation under the Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its Subcontractors under



worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

2.144 Patent/Copyright Infringement Indemnification

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

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if the option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

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

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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

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

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to



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

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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

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

2.152 Termination for Cause

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

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

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

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

**2.153 Termination for Convenience**

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

2.154 Termination for Non-Appropriation

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

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

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

2.155 Termination for Criminal Conviction

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

2.156 Termination for Approvals Rescinded

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

2.157 Rights and Obligations upon Termination

(a) If the State terminates the Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from the Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which



are resulting from the Contract (which must be provided to the State on an “As-Is” basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

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

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

2.158 Reservation of Rights

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

2.160 Deleted – N/A

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 30 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

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



2.174 Contractor Software Transition

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

2.175 Transition Payments

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

2.176 State Transition Responsibilities

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

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

2.180 Stop Work

2.181 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

2.182 Cancellation or Expiration of Stop Work Order

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

2.183 Allowance of Contractor Costs

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

2.190 Dispute Resolution



2.191 In General

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

2.192 Informal Dispute Resolution

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

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within 60 calendar days, the Director of Procurement, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

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

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

2.193 Injunctive Relief

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

2.194 Continued Performance

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

2.200 Federal and State Contract Requirements



2.201 Nondiscrimination

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

2.202 Unfair Labor Practices

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

2.203 Workplace Safety and Discriminatory Harassment

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

2.204 Deleted – N/A

2.210 Governing Law

2.211 Governing Law

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

2.212 Compliance with Laws

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

2.213 Jurisdiction

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

2.220 Limitation of Liability

2.221 Limitation of Liability

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of the Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.



2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

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

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

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

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

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

2.232 Call Center Disclosure

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

2.233 Bankruptcy

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

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;



- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under the Contract.

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

2.240 Performance

2.241 Time of Performance

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

2.242 Service Level Agreements (SLAs)

- (a) SLAs will be completed with the following operational considerations:
 - (i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
 - (ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
 - (iii) 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.
 - (iv) 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:
 1. 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.
 2. 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) is 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 must not affect any tiered pricing levels.



(c) Root Cause Analysis must be performed on any business critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor must provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.

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

2.243 Liquidated Damages

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

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

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

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

2.244 Excusable Failure

Neither party will be liable for any default, damage, or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military, or otherwise), power failure, 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 Responsibilities

Unless otherwise specified by the State within an individual order, the following must be applicable to all orders issued under the Contract.

- (a) Shipment responsibilities - Services performed/Deliverables provided under the Contract must be delivered "F.O.B. Destination, within Government Premises." The Contractor must have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates must be specified on the individual purchase order.
- (b) Delivery locations - Services must be performed/Deliverables must be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.
- (c) Damage Disputes - At the time of delivery to State Locations, the State must examine all packages. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage. Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within 14 days of receipt. Any damage must be reported to the Contractor within five days of inspection

2.252 Delivery of Deliverables

Where applicable, the Statements of Work/POs contain lists 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"), a good ("Physical Deliverable") or a Service. All Deliverables must be completed and delivered for State review and written approval and, where applicable, installed according to the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

2.253 Testing

- (a) Before delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor must first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and conforms with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor must



certify to the State that (1) it has performed the quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during the quality assurance activities and testing, (4) the Deliverable or Service 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.

(b) If a Deliverable includes installation at a State Location, then Contractor must (1) perform any applicable testing, (2) correct all material deficiencies discovered during the quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State is entitled to observe or otherwise participate in testing.

2.254 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.

(b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.

(c) Before commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor according to **Section 2.253**.

(d) The State must approve in writing a Deliverable/Service after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, but is not be required to, conditionally approve in writing a Deliverable/Service 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/Service that remain outstanding at the time of State approval.

(e) If, after three opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure the breach. Notwithstanding the foregoing, the State cannot 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.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.



2.255 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 Deliverable (and if the Statement of Work does not state the State Review Period, it is by default five Business Days for Written Deliverables of 100 pages or less and 10 Business Days for Written Deliverables of more than 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 before 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 Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State notifies the Contractor about deficiencies, the Contractor must correct the described deficiencies and within 30 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 must be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.256 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.257 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 continuous Business Days for a Physical Deliverable). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State delivers to the Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge. Upon receipt of a corrected Deliverable from the Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.258 Final Acceptance

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.260 Ownership

2.261 Ownership of Work Product by State

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



2.262 Vesting of Rights

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

2.263 Rights in Data

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

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

2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

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

2.272 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see http://www.michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.273 Systems Changes

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



2.274 Electronic Receipt Processing Standard

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

2.280 Extended Purchasing Program

2.281 Extended Purchasing Program

The Agreement will be extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal. Upon mutual written agreement between the State of Michigan and the Contractor, this Agreement may be extended to (a) State of Michigan employees, or (b) other states (including governmental subdivisions and authorized entities).

If extended, the Contractor must supply all goods and services at the established Agreement prices and terms. The State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

The Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.”

2.290 Environmental Provision

2.291 Environmental Provision

Hazardous Materials:

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

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

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

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of



resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

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

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

Refrigeration and Air Conditioning:

The Contractor must comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the Contract.

Environmental Performance:

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

2.300 Other Provisions

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

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

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



Attachment A – Pricing

Pricing Option	Plan Year 1	Plan Year 2	Plan Year 3	Total Cost
Self-Funded Option				
Employee Contract Per Year Cost - Administration	\$4.32	\$4.47	\$4.63	\$13.42
Employee + 1 Contract Per Year Cost - Administration	\$4.32	\$4.47	\$4.63	\$13.42
Family Contract Per Year Cost - Administration	\$4.32	\$4.47	\$4.63	\$13.42

Contractor will not charge the Plan Sponsor for any bifocal lens claim associated with a progressive lens claim, or for any progressive lens claim associated with bifocal lens claim. Progressive lens claims are processed under this Contract with a \$0.00 Plan Sponsor charge. As a result, Contractor’s charge to the Plan Sponsor for bifocals associated with progressive lenses must be \$0.00.

Progressive lenses include, but are not limited to, the following procedure codes:

- V2781
- V278122
- V278125
- V2781TG

Contractor must provide quarterly reports that identify all progressive lens charges and any associated bifocal lens charges. Reports must include, at a minimum: member ID, date of service, location of service, submitted amount, plan pay (amount charged to Plan Sponsor), and member copay for each claim.



Attachment B – Plan Design

Vision Care Services	Member Cost	Out-of-Network
Exam with Dilation as Necessary	\$10.00 Copay	\$40.00
Exam Options:		
Standard Contact Lens Fit and Follow-Up	Up to \$55.00	N/A
Premium Contact Lens Fit and Follow-Up	10% off Retail	N/A
Frames:		
Any available frame at provider location	\$0.00 Copay; \$120.00 Allowance, 20% off balance over \$120.00	\$23.00
Standard Plastic Lenses:		
Single Vision	\$15.00 Copay	\$16.00
Bifocal	\$15.00 Copay	\$23.00
Trifocal	\$15.00 Copay	\$27.00
Lenticular	\$15.00 Copay	\$75.00
Standard Progressive Lens	\$80.00	\$23.00
Lens Options:		
UV Treatment	\$15.00	N/A
Tint (Solid and Gradient)	\$15.00	N/A
Standard Plastic Scratch Coating	\$15.00	N/A
Standard Polycarbonate - Adults	\$40.00	N/A
Standard Polycarbonate - Kids under 19	\$0.00	\$5.00
Standard Anti-Reflective Coating	\$45.00	N/A
Polarized	20% off Retail Price	N/A
Contact Lenses: <i>(Contact lens allowance includes materials only)</i>		
Conventional	\$15.00 Copay; \$120.00 allowance, 15% off balance over \$120.00	\$35.00
Disposable	\$15.00 Copay; \$120.00 allowance, plus balance over \$120.00	\$35.00
Medically Necessary	\$0.00 Copay	\$96.00
Laser Vision Correction:		
Lasik or PRK from U.S. Laser Network	15% off retail price or 5% off promotional price	N/A
Additional Pairs Benefit:	Members also receive a 40% discount off complete pair eyeglass purchases and a 15% discount off conventional contact lenses once the funded benefit has been used.	N/A
Frequency:		
Examination	Once every 24 months	
Lenses or Contact Lenses	Once every 24 months	
Frame	Once every 24 months	
Benefit Allowances provide no remaining balance for future use within the same Benefit Frequency.		
Services not detailed above:	20% discount off all services not detailed above	



The Membership assumptions are listed below. Future years were estimated at an average growth rate of 4% annually. These are only estimates based on the best available data, and are subject to change throughout the year.

	Plan Year 1	Plan Year 2	Plan Year 3
Total Members:	253,783	263,934	274,492
Total Contracts:	158,637	164,982	171,582
Employee Contracts (Single Employee):	71,145	73,991	76,950
Employee + 1 Contracts (Employee plus Spouse, or Employee plus 1 or more Children):	82,317	85,610	89,034
Family Contracts (Employee plus Spouse plus one or more Children):	5,175	5,382	5,597



Attachment C – Batch Program - Extract Data File

Data Population Rules:

Segment ISA

- This is a fixed length segment.

1. Authorization Information Qualifier

00 – No Authorization Information Present

2. Authorization Information

Fill with spaces. File is not reporting authorization information.

3. Security Information Qualifier

00 – No Security Information Present

4. Security Information

Fill with spaces. File is not reporting security information.

5. Interchange ID Qualifier

30 – U.S. Federal Tax Identification Number

6. Interchange Sender ID

Retirement System Tax ID number (be_org.tax_id_nr) with trailing spaces

7. Interchange ID Qualifier

30 – U.S. Federal Tax Identification Number

8. Interchange Receiver ID

Tax ID number of the receiver/health care vendor (be_org.tax_id_nr) with trailing spaces

9. Interchange Date

Denotes the date that the file is created and will always be the business date on which the job is run in YYMMDD format.

10. Interchange Time

Denotes the time that the file is created and will always be the time on the business date on which the job is run in HHMM format.

11. Interchange Control Standards Identifier

U – U.S. EDI Community of ASC X12, TDCC, and UCS

12. Interchange Control Version Number

00401 – Draft Standards for Trial Use Approved for Publication by ASC X12 Procedures Review Board through October 1997

13. Interchange Control Number

Unique system-defined number given to each file. This number will start with '000000001' and increase by an increment of one for each respective file produced.

14. Acknowledgement Requested

0 – No Acknowledgement Requested

15. Usage Indicator

Indicates whether the file produced is a test file or a real production submission (be_834_file_typ.file_typ_cd)



P – Production Data
T – Test Data

16. Component Element Separator

: - Component element separator (if needed)

Segment GS

17. Functional Identifier Code

BE – Benefit Enrollment and Maintenance (834)

18. Application Sender's Code

Retirement System Tax ID number (be_org.tax_id_nr)

19. Application Receiver's Code

Tax ID number of the receiver/health care vendor (be_org.tax_id_nr)

20. Date

Denotes the date that the file is created and will always be the business date on which the job is run in CCYYMMDD format.

21. Time

Denotes the time that the file is created and will always be the time on the business date on which the job is run in HHMM format.

22. Group Control Number

Unique system-defined number given to each group. This number will start with '000000001' and increase by an increment of one for each respective group submitted in a file.

23. Responsible Agency Code

X – Accredited Standards Committee X12

24. Version/Release/Identifier Code

004010X095 – Draft Standards Approved for Publication by ASC X12 Procedures Review Board through October 1997, as published in this implementation guide.

Implementation guide used – National Electronic Data Interchange Transaction Set Implementation Guide, Benefit Enrollment and Maintenance, 834, ASC X12N 834 (004040X095) from the Washington Publishing Company May 2000.

Segment ST

25. Transaction Set ID Code

834 - Benefit Enrollment and Maintenance

26. Transaction Set Control Number

Unique system-defined number given to each record in the file and signifies the beginning of a transaction set with this control number. This number will start with '0001' and increase by an increment of one for each respective vendor file produced.

Segment BGN

27. Transaction Set Purpose Code

00-Original; Used only in the scheduled batch; Number will increase by one for each vendor file created



15-Re-Submission; Used only in the JS-Request Health Care Data File Resubmission; Number will increase by one for each vendor file created

28. Reference ID #

System generated number which denotes the beginning of a transaction set; Stored in tp_cntrct_prsn_enroll_dtls. This number will increase by one for each vendor file created. This number will start with '1' and increase by an increment of one for each respective vendor file produced.

29. Date

Denotes the date that the file is created and will always be the business date on which the job is run in CCYYMMDD format.

30. Time

Denotes the time that the file is created and will always be the time on the business date on which the job is run in HHMM format.

31 Action Code

2 – Change; Denotes type of file

Loop 1000A, Segment N1

32. Entity ID Code

P5 Plan Sponsor; Designates entity within the Sponsor segment

33. Name

Retirement System Name: 'Michigan Office of Retirement Services' (be_org.org_nm)

34. Identification Code Qualifier

FI – Federal Taxpayer's ID number

35. Identification Code

Retirement System Tax ID number (be_org.tax_id_nr)

Loop 1000B, Segment N1

36. Entity Identifier Code

'IN' – Insurer

37. Name

Vendor name (be_org.org_nm)

38. Identification Code Qualifier

FI – Federal Taxpayer's ID number

39. Identification Code

Vendor Tax ID number (be_org.tax_id_nr)

Loop 2000, Segment INS

40. Yes/No Condition Code

N = No; If member = non-subscriber, insert 'N' (where be_cntrct_prsn.hc_reln_typ_cd <> 'SLF')

Y = Yes; If member = subscriber, insert 'Y' (where be_cntrct_prsn.hc_reln_typ_cd = 'SLF')

41. Individual Relationship

From be_prsn_reln.reln_typ_cd

01 Spouse – 'SPOS' (Spouse)

05 Grandson or Granddaughter – 'GNDC' (Grand Child)

07 Nephew or Niece – 'NEPH' (Nephew) or 'NIEC' (Niece)



- 09 Adopted Child – ‘ADCH’ (Adopted Child)
- 13 Mother-in-law or Father-in-law – ‘MILW’ (Mother-in-Law) or ‘FILW’ (Father-in-Law)
- 14 Brother or Sister – ‘BRO’ (Brother) or ‘SIS’ (Sister)
- 17 Stepson or Stepdaughter – ‘STCH’ (Step Child)
- 18 Self – ‘SLF’ (Self from be_hc_cnrct.hc_reln_typ_cd)
- 19 Child – ‘CHLD’ (Child)
- 32 Mother – ‘MTHR’ (Mother)
- 33 Father – ‘FTHR’ (Father)

42. Maintenance Type Code

- 001-Change; Use when changes to plan
- 021-Addition; Use when adding a new enrollment
- 024-Cancellation or Termination; Use when suspending a plan
- 025-Reinstatement; Use when activating a suspended plan
- 030-Audit or Compare

Specific code to use will be determined by the maintenance reason code in the next field

43. Maintenance Reason Code

Map reason codes to the maintenance type codes (maintenance type codes in parenthesis):

Existing reason codes:

- 01-Divorce (024)
- 02-Birth (021)
- 03-Death (024)
- 05-Adoption (021)
- 07-Termination of Benefits (024)
- 10 – COBRA / Pays-us Premium Paid
- 11-Surviving Spouse (021)
- 18-Suspended (024)
- 25-Change in Identifying Data Elements (001); This code will be used for name changes and SSN changes;
- 28-Initial Enroll (021)
- 29-Benefit Selection (001)
- 32-Marriage (021)
- 41-Re-Enrollment (025)
- 43-Change of Location (001); This code will be used for name changes and SSN changes;

44. Benefit Status Code

A – Active; Select from be_hc_cnrct where end_dt = ‘2999-12-31 00:00:00.000’; All health care contract owners and their covered dependents will be listed as ‘Active’ if the owner is not deceased and reason code is not ‘Survivor Activation’.

C – COBRA; This value is set if be_cnrct_policy_elctn.cobra_in = 1

S – Surviving Insured; This value is set if the reason code is Survivor Activation and no death date is populated for the contract owner.

45. Medicare Plan Code

A – If Medicare Part A exists;
 Select where be_cnrct_prsn.medicare_in = 1 and
 Part_A_eff_dt is not null and
 Part_B_eff_dt is null;

B – If Medicare Part B exists;
 Select where be_cnrct_prsn.medicare_in = 1 and
 Part_B_eff_dt is not null and
 Part_A_eff_dt is null;



C – If Medicare Part A and B exists;
Select where be_cnrct_prsn.medicare_in = 1 and
Part_A_eff_dt is not null and
Part_B_eff_dt is not null;

E – No Medicare; Select where be_cnrct_prsn.medicare_in = 0

Determines if the member is a Medicare recipient

46. Employment Status Code

RT – Retired

TE – Terminated; this code will be populated for all records that are terminated.

47. Student Status Code

F – Full-time (where be_cnrct_prsn.student_in = 1)

N – Not a Student (where be_cnrct_prsn.student_in = 0)

Determines if the member is a student

48. Yes/No Condition Response Code

N = No

Y = Yes

Determines if the member is disabled (be_cnrct_prsn.disabled_in)

49. Date Time Period Format Qualifier

- Populate only if Date of Death exists;

Constant – ‘D8’ (Date Expressed in Format CCYYMMDD)

50. Date Time Period

- Populate only if Date of Death exists;

Date of Death (CCYYMMDD) (be_prsn.deth_dt)

Loop 2000, Segment REF

51. Reference Identification Qualifier

0F – Subscriber Number

52. Reference Identification

Subscriber SSN (be_prsn.ss_nr)

Loop 2000, Segment REF

53. Reference Identification Qualifier

6O – Cross Reference SSN

54. Reference Identification

Cross Reference Owner's SSN

Loop 2000, Segment REF

55. Reference Identification Qualifier

ZZ – Mutually Defined

56. Reference Identification

Combination of system (be_pln.pln_id), benefit structure type (be_bene_struc_ref. bene_struc_cli_cd) and retirement effective date (be_bene_acct.rtrmt_dt) concatenated



Ex) SERS, SERS DB Classified, 01/01/2004 would write to the file as '1&SDBC&20040801'; The Ampersand is the delimiter used to separate the three attributes.

Loop 2000, Segment REF

- Populate only if HIC number is available.

57. Reference Identification Qualifier

F6 – Medicare HIC number

58. Reference Identification

Medicare HIC number - (be_cntrct_prsn.HIB is not null)

Loop 2000, Segment DTP

59. Date/Time Qualifier

286 – Retirement

60. Date/Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

61. Date Time Period

Retirement Effective Date (be_bene_acct.rtrmt_dt; CCYYMMDD)

Loop 2000, Segment DTP

62. Date/Time Qualifier

356 – Reason date

63. Date/Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

64. Date Time Period

Reason Date (be_cntrct_prsn.reason_dt; CCYYMMDD)

Loop 2000, Segment DTP

- Only if Medicare plan code (field #45) is A or C

65. Date/Time Qualifier

338 – Medicare Begin

66. Date/Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

67. Date Time Period

Populate with the Medicare A effective date (be_cntrct_prsn.part_a_eff_dt); (CCYYMMDD)

Loop 2000, Segment DTP

- Only if Medicare plan code (field #45) is B or C

68. Date/Time Qualifier

338 – Medicare Begin

**69. Date/Time Period Format Qualifier**

D8 – Date Expressed in Format CCYYMMDD

70. Date Time Period

Populate with the Medicare B effective date (be_cntrct_prsn.part_b_eff_dt); (CCYYMMDD)

Loop 2100A, Segment NM1

71. Entity Identifier Code

IL – Insured or Subscriber; Used when identifying information of a new health care policy owner

74 – Corrected Insured; Used in correcting the identifying information of a member who is already enrolled, including name and SSN changes

72. Entity Type Qualifier

1 – Person

73. Name Last or Organization Name

Member's last name (be_prsn.last_nm)

74. Name First

Member's first name (be_prsn.fst_nm)

75. Name Middle

Member's middle name (be_prsn.mid_nm)

76. Name Prefix

Member's name prefix (be_prsn.dsgtn_cd)

77. Name Suffix

Member's name suffix (be_prsn.sfx_cd)

78. Identification Code Qualifier

34 – SSN

79. Identification Code

Member's SSN (be_prsn.ss_nr)

Loop 2100A, Segment PER

- Populate only if a Home phone number is available for the subscriber

80. Contact Function Code

IP – Insured Party

81. Communication Number Qualifier

HP – Home Phone Number

82. Communication Number

The subscriber's home phone number (be_tel.tel_nr)

Loop 2100A, Segment N3

- Populate only if a 'PERM' (Permanent) address type is available for the subscriber

83. Address Information

The member's address (be_addr.addr_ln1_nm)

**84. Address Information**

The member's address; Combine be_addr.addr_ln2_nm and be_addr.addr_ln3_nm (will truncate after 55 characters, losing up to a maximum of five characters)

Loop 2100A, Segment N4

- Populate only if a 'PERM' (Permanent) address type is available for the subscriber

85. City Name

The member's city of residence (be_addr.city_nm)

86. State or Province Code

The member's state or province code of residence (be_addr.st_cd or be_addr.frgn_prov_cd)

87. Postal Code

The member's postal code of residence (be_addr.zip_cd)

88. Country Code

The member's country of residence (be_addr.ctry_cd); The country code is required by 834 format guidelines to be a two character code derived from the ISO 3166 list of country codes. This list is found at:

<http://www.iso.org/iso/en/prods-services/iso3166ma/02iso-3166-code-lists/list-en1.html>

Loop 2100A, Segment DMG

89. Date Time Period Format Qualifier

D8 – (Date Expressed in Format CCYYMMDD)

90. Date Time Period

Member's (be_prsn.brth_dt) (Date Expressed in Format CCYYMMDD)

91. Gender Code

F – Female (select where be_prsn.sex_cd = 'F')

M – Male (select where be_prsn.sex_cd = 'M')

U – Unknown (select where be_prsn.sex_cd = 'UKNW')

Loop 2200, Segment DSB

- Populate only if the subscriber is a disability retiree

92. Disability Type Code

3 – Permanent or Total Disability (where be_cntrct_prsn.disabled_in = 1)

Loop 2200, Segment DTP

- Populate only if the subscriber is a disability retiree

93. Date/Time Qualifier

360 – Disability Begin

94. Date Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

95. Date Time Period

Retirement Effective Date (CCYYMMDD)

Loop 2300, Segment HD

96. Maintenance Type Code

Similar to Loop 2000, Segment INS, Maintenance Type Code.

**97. Insurance Line Code**

The following values will be populated for different vendors

DEN – Dental Vendors
HLT – Health Vendors
VIS – Vision Vendors

98. Coverage Level Code

The following values will be populated based on the coverage level code

EMP – Employee only
ESP – Employee and Spouse
ECH – Employee and Children
FAM – This will be used in the case of Self, Spouse and Children coverage
SPO – Spouse Only
SPC – Spouse and Children
E5D – Employee and one or more dependents – This will be used when parents are covered
CHD – Children Only.
DEP – Dependent Only.

Loop 2300, Segment DTP

99. Date/Time Qualifier

303 – Maintenance effective date
348 – Benefit Begin. This denotes the effective date of the coverage. This code should always be send when adding coverage.
349 – Benefit End. This denotes the subscriber's or dependent's benefit end.
543 – Last Premium Paid Date

100. Date Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

101. Date Time Period

Change Effective Date (CCYYMMDD)

Loop 2320, To supply information on coordination of benefits

102. Payer Responsibility Sequence Number Code

This is the code identifying the insurance carrier's level of responsibility for payment of a claim.

P – Primary
S – Secondary
T – Tertiary
U – Unknown

For Medicare retiree this field will have 'P'.

103. Reference Identification

Always supply the policy number when it is available. For Medicare retiree this field will have the HIB number.

104. Coordination of Benefits Code

Code identifying whether there is coordination of benefits.

1 – Coordination of Benefits
5 – Unknown
6 – No Coordination of Benefits.

For Medicare Retiree this field will have 1.

Segment REF – To specify the identifying information.

The REF segment will not be populated for the Medicare retiree or if the group number is empty.

**105. Reference Identification Qualifier**

6P – Group Number

106. Reference Identification

Member Group or Policy Number

Segment N1 - To identify the party by type of organization, name and code.

107. Entity Identifier Code

IN – Insurer

108. Name

Send the insurance company name.

For Medicare retiree, if the Medicare plan code is A or C this field will have the value 'Medicare Part A'. If the Medicare plan code is B or C this field will have the value 'Medicare Part B'.

Segment DTP -

This segment will not be sent if the cob effective date is not available.

109. Date/Time Qualifier

344 – Coordination of Benefits Begin

110. Date Time Period Format Qualifier

D8 – Date Expressed in Format CCYYMMDD

111. Date Time Period

Coordination of benefits date.

Segment SE

113. Number of Included Segments

Calculated; Sum of all segments included in respective vendor file

114. Transaction Set Control Number

Unique system-defined number given to each record in the file and signifies the end of a transaction set with this control number. This number will start with '0001' and increment by one for each respective vendor file produced. Should be the same number as the Transaction Set Control Number listed in the Transaction Set Header segment (Data Element Number 2 above).

Segment GE

115. Number of Transaction Sets Included

Count of the number of ST segments included in the file.

116. Group Control Number

Identical to the control number used in data element 22 (GS06)

Segment IEA

117. Number of Included Functional Groups

Count of the number of GS segments included in the file.

118. Interchange Control Number

Identical to the control number used in data element 13 (ISA13)



Attachment D – Data Management Vendor Requirements

Description/General Information

This interface is designed to produce a Vision claims file for plan participants administered through <Data Supplier>.

The data will be provided in a fixed-record length, ASCII file format. The data request consists of two layouts/records; a Vision Detail Record and a Trailer Record.

Method of Submission

[To be determined] Truven Health Analytics supports a number of file submission options including: FTP, Web Submission, as well as physical media.

Frequency of Submission

The data will be submitted to Truven Health Analytics on a **monthly** basis.

Timing of Submission

Monthly files should be submitted on or before the 15th of the month following the close of each **month**.

Data Type: Vision Claims/Encounter Records

Definitions:

- **Fee-for-service claims** – Claims records for services that result in direct payment to providers on a service-specific basis.
- **Encounter records** – Utilization records for services provided under capitation arrangements (i.e., plans in which a provider is paid based on the number of enrollees rather than the services rendered.) These records enable documentation of all services provided regardless of whether or not direct payment was made to the provider.
- **Professional Data** – Professional data includes all services rendered by a physician or other professional provider. The basis for the requirements of professional data is the information found on the standard CMS-1500 claim form.
- **Fee-for-Service Equivalents** – Financial amounts for services rendered under a capitated arrangement found within encounter records.

Items for discussion

General

- If both fee-for-service claims and encounter records are included on the data file, Truven Health will rely on the data supplier to explain how to differentiate them.
- If encounter records contain fee-for-service equivalents, it is essential for Truven Health to understand which fields contain these amounts.
- Financial fields should be populated at the service line level, not at the claim level.
- If the managed care program includes a risk-sharing arrangement with providers such that a portion of the approved payment amount is withheld from the provider payment and placed in a risk-sharing pool for later distribution, then the withhold amount should be recorded as a separate field and also included in the Charge Submitted, Allowed Amount and Net Payment fields.

Provider

Truven Health requires unique provider identifiers and associated names. Truven Health would like both the identifier and the name to be specific to each provider, rather than group level information. TAXID is preferred for the identifier.



- If providers within group practices use a single TAXID, Truven Health would prefer an additional qualifier that would make each identifier and name unique.
- If only the group name is available with the associated TIN, and a qualifier is not available, Truven Health prefers NPI. In this case the TAXID is still requested in addition to the NPI or alternate identifier.

Example 1

When providers in group practices use the same TAXID, a qualifier is needed to insure unique provider names.

Claim ID	TAXID	Qualifier	Provider Name	Procedure	Svc Cnt	Net Pay
11111	121212121	2222	Dr. Brown	V2599	2	2000.00
22222	121212121	3333	Dr. Smith	92014	1	100.00

Example 2

The following is an example of what is **not** desired.

Claim ID	TAXID	Provider Name	Procedure	Svc Cnt	Net Pay
11111	121212121	Dr. Brown	V2025	2	2000.00
22222	121212121	Dr. Smith	92014	1	100.00
33333	232323232	XYZ Vision Group	92004	1	125.00
44444	232323232	XYZ Vision Group	V2025	1	110.00

Example 3

When only the groups name is available with TAXID, NPI is requested in addition to TAXID.

Professional

Claim ID	TAXID	Group Name	NPI	Provider Name	Prov Type	Svc Cnt	Net Pay
11111	121212121	XYZ Vision	2222	Dr. Brown	25	2	2000.00
22222	121212121	XYZ Vision	3333	Dr. Smith	35	1	100.00

Financial Fields

Truven Health defines the relationship among financial fields as follows:

- Charge Submitted
- Not Covered Amount*
- = Charge Covered*
- Discount Amount
- = Allowed Amount
- Coinsurance
- Copayment
- Deductible
- Penalty/Sanction
- Amount*



- Third Party Amount
- = **Net Payment**

*not required in standard data extract (desirable if available)

Corrections to paid claims

Data suppliers generally use either Void/Replacement or Adjustment records to make corrections to paid claims. Truven Health defines these as follows:

Void/Replacement

A void is a claim that reverses or backs out a previously paid one. All financials and quantities are negated on the void record. A replacement record that contains the corrected information generally follows it. The original, void and replacement need not appear in the same file.

Example: After adjudication, a paid claim with a \$25.00 Copay and \$50.00 Net Pay, a correction was necessary. The correction contains a \$10.00 Copay and \$65.00 Net Pay.

Record Type	Service Count	Charge Submitted	Copay	Deductible	Net Payment
Original	1	75.00	25.00	0.00	50.00
Void	-1	-75.00	-25.00	0.00	-50.00
Replacement	1	75.00	10.00	0.00	65.00

Adjustments

A financial adjustment is a claim line where one or more of the financial fields display the difference between the original amount and the final amount. Any financial not being adjusted should be zero. All quantities should be zero on the adjustment as well. The original and adjustment need not appear in the same file.

Example: After a claim was adjudicated with a \$25.00 Copay and \$50.00 Net Pay, it was discovered that there should have been a \$10.00 Copay and \$65 Net Pay.

Record Type	Service Count	Charge Submitted	Copay	Deductible	Net Payment
Original	1	75.00	25.00	0.00	50.00
Adjustment	0	0	-15.00	0.00	15.00

Professional Record Content

- Truven Health does not store separate header/claim-level and detail/service-level information for professional claims. Truven Health requires the following:
- Each record in the data file should represent one service (detail) line.
- All financials and quantities on each record should pertain to that service only (as opposed to the entire claim.)
- The repeating of non-quantitative claim-level information (e.g., Claim ID, Provider ID, Provider Type, etc.) on each record is necessary.



Example: One professional claim with two service lines:

Claim-Level Information			Service-Level Detail			
Claim ID	Prov ID	Prov Type	Line Nbr	Proc Cd	Svc Cnt	Net Pay
13331	621262121	51	1	92004	1	100.00
13331	621262121	51	2	V2025	1	150.00

Denied Claims

Fully denied claims must be removed from the extract of claims prior to submission, while partially denied claims must be included. Truven Health defines denied claims as follows:

- Fully denied claim - The entire claim has been denied (typical reasons include an ineligible member, an ineligible provider, or a duplicate claims).
- Partially denied claim – The claim contains one or more service lines that are denied, but some that are paid. All service lines should be included on the file.

DATA FORMATTING

Character Fields

- Includes A - Z (lower or upper case), 0 – 9, and spaces
- Left justified, right blank/space filled
- Unrecorded or missing values in character fields are blank/spaces

Numeric Fields

- All numeric fields should be right-justified and left zero-filled.
- Unrecorded or missing values in numeric fields should be set to zero.

Financial Fields

- All financial fields should be right-justified and left zero-filled.
- Truven Health prefers to receive both dollars and cents, with an implied decimal point before the last two digits in the data. For example, the data string “1234567” would represent \$12,345.67. Please do not include an actual decimal point in the data.
- Negative signs should be the leading value in the first position. For example “-1234567” would represent -\$12,345.67.
- Unrecorded or missing values in numeric fields should be zero (000 to accommodate the two digit implied decimal) and left zero-filled.

Invalid Characters

Please note that the following characters should not be included in the data or the descriptions in the data dictionary.

- *
 - !
 - ?
 - %
 - _ (under score)
 - , (comma)



Detail Record

Field Number	Field Name	Start	End	Length	Type	Data Element Description	Data Supplier Instructions/Notes
1	Adjustment Type Code	1	1	1	Character	Client-specific code for the claim adjustment type for example original, void or adjustment.	Adjustment Type values will be identified in the Data Dictionary .
2	Allowed Amount	2	11	10	Numeric	The maximum amount allowed by the plan for payment.	Format 9(8)v99 (2 – digit, implied decimal)
3	Capitated Service Indicator	12	12	1	Character	An indicator that this service (encounter record) was capitated	Applicable field values are “Y” for Capitated services and “N” for non-cap services.
4	Charge Submitted	13	22	10	Numeric	The submitted or billed charge amount	Format 9(8)v99 (2 – digit, implied decimal)
5	Claim ID	23	37	15	Character	The client-specific identifier of the claim.	
6	Co-Insurance	38	47	10	Numeric	The coinsurance paid by the subscriber as specified in the plan provision.	Format 9(8)v99 (2 – digit, implied decimal)
7	Copayment	48	57	10	Numeric	The copayment paid by the subscriber as specified in the plan provision.	Format 9(8)v99 (2 – digit, implied decimal)
8	Date of Birth	58	67	10	Date	The birth date of the person.	MM/DD/CCYY format The member’s birth date is part of the Person ID key and is, therefore, critical to tagging claims to eligibility. The four-digit year is required for date of birth. The century cannot be accurately assigned based on a two-digit year.
9	Date of First Service	68	77	10	Date	The date of the first service reported on the claim record.	MM/DD/CCYY format
10	Date of Last Service	78	87	10	Date	The date of the last service reported on the claim record.	MM/DD/CCYY format
11	Date Paid	88	97	10	Date	The date the claim or data record was paid.	MM/DD/CCYY format This is the check date.
12	Deductible	98	107	10	Numeric	The amount paid by the subscriber through the deductible arrangement of the plan.	Format 9(8)v99 (2 – digit, implied decimal)



Field Number	Field Name	Start	End	Length	Type	Data Element Description	Data Supplier Instructions/Notes
13	Discount	108	117	10	Numeric	The discount amount of the claim, applied to charges for any plan pricing reductions.	Format 9(8)v99 (2 – digit, implied decimal)
14	Family ID / Employee SSN	118	126	9	Character	The unique identifier (Social Security Number) for the subscriber (contract holder, employee) and their associated dependents.	The subscriber's social security number is part of the Person ID key and is, therefore, critical to tagging claims to eligibility.
15	Gender Code	127	127	1	Character	The member's gender code.	"M" or "F" The member's gender is part of the Person ID key and is, therefore, critical to tagging claims to eligibility.
16	Line Number	128	129	2	Numeric	The detail line number for the service on the claim	
17	Net Payment	130	139	10	Numeric	The actual check amount for the record	Format 9(8)v99 (2 – digit, implied decimal)
18	Network Paid Indicator	140	140	1	Character	An indicator of whether the claim was paid at in-network or out-of-network level	"Y" or "N"
19	Network Provider Indicator	141	141	1	Character	Indicates if the servicing provider participates in the network to which the patient belongs	"Y" or "N"
20	Ordering Provider ID	142	154	13	Character	The ID number of the provider who referred the patient or ordered the test or procedure.	The ID should be the physician's Federal Tax ID (TIN).
21	Ordering Provider Name	155	184	30	Character	The Name of the provider who referred the patient or ordered the test or procedure.	
22	Ordering Provider Zip Code	185	189	5	Character	The zip code of the provider who referred the patient or ordered the test or procedure.	
23	PCP Responsibility Indicator	190	190	1	Character	An indicator signifying that the PCP is the physician considered responsible or accountable for this claim.	



Field Number	Field Name	Start	End	Length	Type	Data Element Description	Data Supplier Instructions/Notes
24	Place of Service Code	191	192	2	Character	Client-specific code for the place of service.	Place of Service values will be identified in the Data Dictionary .
25	Procedure Code	193	199	7	Character	The procedure code for the service record. Expanded from 5 to 7 for future use.	Standard CPT or HCPCS codes.
26	Procedure Modifier Code	200	201	2	Character	The 2-character code of the first procedure code modifier on the professional claim.	
27	Provider ID	202	214	13	Character	The identifier for the provider of service.	This must be the federal tax ID in order to use the standard physician identifier lookup (Standard Physician)
28	Provider Type Code Claim	215	217	3	Numeric	Client-specific code for the provider type on the claim record.	Provider Type codes are further defined in the Data Dictionary
29	Provider Zip Code	218	222	5	Numeric	The 5-digit zip code corresponding to the Provider ID	Provider Location zip code
30	Third Party Amount	223	232	10	Numeric	The amount saved due to integration of third party liability (Coordination of Benefits) by all third party payers (including Medicare).	Format 9(8)v99 (2 – digit, implied decimal)
31	Units of Service	233	236	4	Numeric	Client-specific quantity of services or units	
32	Provider Name	237	266	30	Character	The description or name corresponding to the Provider ID.	
33	Funding Type Code	267	268	2	Numeric	Specifies whether the claim was paid under a fully or self-funded arrangement	“S” = Self-funded “F” = Fully-funded
34	Account Structure	269	276	8	Character	Client-specific code for the account structure of the plan that the member is enrolled in. This is usually a group number.	Additional fields may be added to the layout if there is more than one component of the account structure.
35	Provider NPI Number	277	286	10	Character	The National Provider ID number for the provider.	
36	Provider Address 1	287	336	50	Character	The current street address1 of the provider of service.	
37	Provider Address 2	337	386	50	Character	The current street address2 of the provider of service.	



Field Number	Field Name	Start	End	Length	Type	Data Element Description	Data Supplier Instructions/Notes
40	Filler1	387	449	63	Character	Reserved for future use	Fill with blanks
41	Record Type	450	450	1	Character	Record Type Identifier	Hard Code 'D'

Trailer Record

Field Number	Field Name	Start	End	Length	Type	Data Element Description	Data Supplier Instruction Notes
1	Data Start Date	1	10	10	Date	Data Start Date	MM/DD/CCYY format – i.e. 09/01/2010. This will represent the 1 st day of the month for which data is provided.
2	Data End Date	11	20	10	Date	Data End Date	MM/DD/CCYY format – i.e. 09/30/2010 This will represent the last day of the month for which data is provided.
3	Record Count	21	30	10	Numeric	Number of Records on File	The count of records provided in the data including the Trailer Record
4	Total Net Payments	31	44	14	Numeric	Total Net Payments on File	The sum of Net Payments provided on the file.
5	Filler	45	449	405	Character	Filler	Fill with Blanks
6	Record Type	450	450	1	Character	Record Type Identifier	Hard Code 'T'