

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. 4
 to
CONTRACT NO. 071B4300069
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox State & Local Solutions, Inc. 100 Hancock Street, 10th Floor Quincy, MA 02171	Karen Severy	Karen.severy@xerox.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(703) 891-8716	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	TREA	Gonzalo Llano	(517) 636-5307	LlanoG@michigan.gov
BUYER	DTMB	Brandon Samuel	(517) 284-7025	samuelb@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Unclaimed Property Custodian Services – Michigan Department of Treasury			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 1, 2010	January 31, 2013	2, 1 yr. options	January 31, 2015
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	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			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6 Months	July 31, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$317,228.49		

Effective February 1, 2015:

- This Contract is hereby extended through July 31, 2015.
- Please note the Buyer and Contract Administrator has been changed to Brandon Samuel.
- Please note that the Contract Compliance Inspector and Program Manager has been changed to Gonzalo Llano.
- The Contract Value has been corrected from \$308,527.48 to \$317,228.49.

All other terms, conditions, specifications, and pricing remain the same. Per vendor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on January 13, 2015.

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

CHANGE OF CONTRACTOR NAME AND OR TAX IDENTIFICATION NUMBER

CONTRACT NO. 071B0200121

hereafter referred as

CONTRACT NO. 071B4300069

between

THE STATE OF MICHIGAN

and

CURRENT NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox State & Local Solutions, Inc. 100 Hancock Street, 10th Floor Quincy, MA 02171	Karen Severy	Karen.severy@xerox.com
	TELEPHONE	NEW CONTRACTOR #, MAIL CODE
	(703) 891-8716	

PREVIOUS NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox State & Local Solutions, Inc. 100 Hancock Street, 10th Floor Quincy, MA 02171	Karen Severy	Karen.severy@xerox.com
	TELEPHONE	PREVIOUS CONTRACTOR #, MAIL CODE
	(703) 891-8716	

DESCRIPTION OF CHANGE NOTICE:
<p>THE CONTRACTOR HAS NOTIFIED THE STATE OF MICHIGAN OF A CHANGE IN ITS BUSINESS NAME AND OR TAX IDENTIFICATION NUMBER. DUE TO THE INTERNAL SYSTEMS RELATED TO THE RELEASE OF CONTRACTOR PAYMENTS, A NEW CONTRACT NUMBER MUST BE ASSIGNED. THE NEW CONTRACT NUMBER IS 071B4300069. EXCEPT FOR THE NEWLY-ASSIGNED NUMBER, THE CONTRACT TERMS AND CONDITIONS REMAIN IN EFFECT.</p> <p>THIS CHANGE IS EFFECTIVE: March 6, 2014</p>
<p>\$317,228.49 REMAINING ON CONTRACT # 071B0200121 TO BE TRANSFERRED TO CONTRACT # 071B4300069.</p>

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	TREA	Greg Pawlak	517-373-8699	pawlakg@michigan.gov
BUYER:	DTMB	Don Mandernach	517-284-7019	mandernachd@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: (Descriptive Contract Title (Not always the same language as provided in MAIN))			
Unclaimed Property Custodian Services – Michigan Department of Treasury			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 years	February 1, 2010	January 31, 2013	
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	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:			

FOR THE CONTRACTOR:	FOR THE STATE:
Xerox State & Local Solutions, Inc.	Signature
Firm Name	Jeff Brownlee, Chief Procurement Officer
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	DTMB Procurement
Date	Enter Name of Agency
	Date

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B0200121
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox State & Local Solutions, Inc. 100 Hancock Street, 10 th Floor Quincy, MA 02171	Karen Severy	karen.severy@xerox.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(703) 891-8716	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	TREA	Greg Pawlak	(517) 373-8699	pawlakg@michigan.gov
BUYER	DTMB	Don Mandernach	(517) 241-7233	mandernachd@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION Unclaimed Property Custodian Services – Michigan Department of Treasury			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 1, 2010	January 31, 2013	2, 1 yr. options	January 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	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			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 Year	January 31, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:		
\$0.00		\$744,740.00		
Effective immediately, this Contract is utilizing the last option year to January 31, 2015.				
All other terms, conditions, specifications and pricing remain unchanged.				
Per agency and vendor agreement and DTMB Procurement approval.				

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

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B0200121
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox State & Local Solutions, Inc. 100 Hancock Street, 10 th Floor Quincy, MA 02171	Karen Severy	karen.severy@xerox.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(703) 891-8716	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	TREA	Greg Pawlak	(517) 373-8699	pawlakg@michigan.gov
BUYER	DTMB	Don Mandernach	(517) 241-7233	mandernachd@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION Unclaimed Property Custodian Services – Michigan Department of Treasury			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 1, 2010	January 31, 2013	2, 1 yr. options	January 31, 2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	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			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 Year	January 31, 2014
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$200,000.00		\$744,740.00		

Per Agency ITRAC request dated 12/14/12, vendor agreement dated 11/2/12 and State Administrative Board approval dated 1/29/13, the first option year will be utilized for this Contract along with the addition of funds in the amount of \$200,000.00 The name of the vendor will now be Xerox State & Local Solutions, Inc. (the FEIN remains the same). The new end date will be January 31, 2014.

All other terms, conditions, specifications and pricing remain unchanged.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET September 23, 2011
PURCHASING OPERATIONS
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO.1
TO
CONTRACT NO. 071B0200121
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR ACS State & Local Solutions Inc. aka ACS Unclaimed Property Clearinghouse 260 Franklin Street, 11th Floor Boston, MA 02110 Jim.Hynes@acs-inc.com		TELEPHONE (617)371-9985 Jim Hynes
		BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Gonzalo Llano (517) 636-5307 Unclaimed Property Custodian Services – Michigan Department of Treasury		
CONTRACT PERIOD: From: February 1, 2010 To: January 31, 2013		
TERMS NET 45	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		

NATURE OF CHANGE(S):

Effective October 1, 2011, this contract is hereby **INCREASED** by \$300,000.00. All other terms, conditions, pricing and specifications remain the same.

AUTHORITY/REASON(S):

Per contractor and agency agreement, the approval of DTMB Purchasing Operations and the approval of the State Administrative Board on September 30, 2011.

INCREASE: \$300,000.00

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$544,740.00

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

February 8, 2010

NOTICE
TO
CONTRACT NO. 071B0200121
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR ACS State & Local Solutions Inc. aka ACS Unclaimed Property Clearinghouse 260 Franklin Street, 11th Floor Boston, MA 02110 Jeremy.Katz@acs-inc.com		TELEPHONE (917) 692-5852 Jeremy Katz
		BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Gonzalo Llano (517) 636-5307 Unclaimed Property Custodian Services – Michigan Department of Treasury		
CONTRACT PERIOD: From: February 1, 2010 To: January 31, 2013		
TERMS NET 45	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		

The terms and conditions of this Contract are those of RFP #07119200248, this Contract Agreement and the Contractor's proposal. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Current Authorized Spend Limit: \$244,740.00

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

**CONTRACT NO. 071B0200121
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF CONTRACTOR ACS State & Local Solutions Inc. aka ACS Unclaimed Property Clearinghouse 260 Franklin Street, 11th Floor Boston, MA 02110 <p style="text-align: right;">Jeremy.Katz@acs-inc.com</p>	TELEPHONE (917) 692-5852 Jeremy Katz BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Gonzalo Llano (517) 636-5307 Unclaimed Property Custodian Services – Michigan Department of Treasury	
CONTRACT PERIOD: From: February 1, 2010 To: January 31, 2013	
TERMS <p style="text-align: center;">NET 45</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	
<p>The terms and conditions of this Contract are those of RFP #07119200248, this Contract Agreement and the Contractor's proposal. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Current Authorized Spend Limit: \$244,740.00</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the RFP #07119200248. Orders for delivery may be issued directly by the Department of Treasury through the issuance of a Purchase Order Form.

FOR THE CONTRACTOR: <p style="text-align: center;">ACS State & Local Solutions Inc.</p> <hr/> <p style="text-align: center;">Firm Name</p> <hr/> <p style="text-align: center;">Authorized Agent Signature</p> <hr/> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <hr/> <p style="text-align: center;">Date</p>	FOR THE STATE: <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Jim Wilson, Buyer Specialist</p> <hr/> <p style="text-align: center;">Name/Title</p> <p style="text-align: center;">Services Division, Purchasing Operations</p> <hr/> <p style="text-align: center;">Division</p> <hr/> <p style="text-align: center;">Date</p>
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DEFINITIONS

“Days” means calendar days unless otherwise specified.

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

“Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.

“Audit Period” has the meaning given in **Section 2.112**.

“Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.

“Blanket Purchase Order” is an alternate term for Contract and is used in the States computer system.

“Business Critical” means any function identified in any Statement of Work as Business Critical.

“Chronic Failure” is defined in any applicable Service Level Agreements.

“Deleted – Not Applicable” means that section is not applicable or included in this Contract. This is used as a placeholder to maintain consistent numbering.

“Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work.

“DMB” means the Michigan Department of Management and Budget.

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

“Excusable Failure” has the meaning given in **Section 2.244**.

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

“Incident” means any interruption in Services.

“Key Personnel” means any Personnel designated in **Section 1.031** as Key Personnel.

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

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

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

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



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

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

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

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

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

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

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

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

“Waste prevention” means source reduction and reuse, but not recycling.

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

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

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



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Request Contract for Unclaimed Property Custodian Services.

1.012 Background

The objective of this Contract is for the services of a qualified Contractor to serve as custodian for securities received from holders that report unclaimed property. The property consists of securities and the dividends or interest associated with these securities. The Contractor will also be involved in the liquidation or transfer of securities as instructed by the Contract Compliance Inspector or designee.

1.020 Scope of Work and Deliverables

1.021 In Scope

Services of a qualified securities custodian (Contractor) to account for securities and related dividends and interest remitted by holders of unclaimed property to the Michigan Department of Treasury, Unclaimed Property Division (UPD) that include, but are not limited to the following:

1. Accept and deposit securities and related dividends/interest remitted to the UPD
2. Account for securities and related dividends/interest remitted to the UPD
3. Liquidate or transfer securities to unclaimed property owners at the direction of the Contract Compliance Inspector or designee
4. Account for all corporate actions, including mergers, stock splits, cash and stock dividends, spinoffs, etc.

1.022 Work and Deliverable

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

1. Establish a custodian account for the Michigan Department of Treasury, Unclaimed Property Division (UPD). Contractor will not deduct charges and fees from the custodian account, except in those instances where the charges stem from redemption or sale transactions. These charges and fees shall be billed separately. A sales commission chart for the charges stemming from a redemption or sale transactions is in Attachment A (Price Proposal).

All accounts are reconciled on a daily basis to ensure that all income is properly allocated and credited and all securities transactions are settled properly. UPD will have access to view this account at any time using Contractor's Workbench® product (see (Exhibit B).

2. Use same account for the duration of Contract.
3. Record each security by CUSIP number, name of issue, number of shares, type of security (i.e. common stock, preferred stock, bonds, debentures and warrants), date received and the method of receipt.

If the UPD does not see the delivery of a position that the holder indicated they were reporting, UPD staff need only alert their designated Contractor Account Manager who will contact holders and transfer agents and coordinate receipt of outstanding positions.

4. Provide accounting for the following types of securities: stocks, mutual funds, bonds, debentures and warrants (see section 1.042 for report requirements).

Contractor will provide record keeping of securities, deposit dates, trade dates and settlement dates.

5. Accept securities through Depository Trust Company (DTC) from holders and reporting entities.

**DTC**

Contractor credits the positions to the UPD's account immediately upon receipt of the position. Contractor also processes any securities issued in Direct Registered Shares/Book Entry for (DRS) by the transfer agents, moves these positions off of the books of the transfer agent and credits the State's account within 48 hours.

Direct Registration Shares (DRS)

Contractor provides an automated and customized solution for the processing of DRS positions (including receipt of these positions electronically when agents refuse to transfer the positions via DTC).

Contractor has a DRS receipt process for the UPD whereby immediately upon receipt of a DRS holding statement, the UPD's dedicated Account Manager reviews and initiates a receipt transaction in which the DRS shares are deposited into the UPD's account. This process allows the position to be settled at DTC within 48 hours and reflected in the UPD's account. Occasionally, the UPD's dedicated Account Manager is able to coordinate with the Transfer Agent and have the position deposited to the account within 24 hours. Once DRS shares are receipted into the account, the UPD is able to monitor and track via Workbench® reports and initiate transfers or liquidations unlike if the position remained directly at the transfer agent on the UPD's behalf.

Additionally, in the event that the UPD receives a report for shares and is unable to find a certificate or DRS statement and the position is not reflected in the UPD's account, UPD staff need only contact their Contractor Account Manager to obtain the shares.

Also, any time Contractor receives a check (i.e. dividends, cash in lieu of fractions, etc) for the Department for which no corresponding shares can be found in the account, the UPD's Account Manager pro-actively follows up with the transfer agent to find out what the check is for and recover any corresponding shares, if applicable.

6. Accept and deposit securities registered in either custodian's name, State of Michigan's name, its nominee name, or unclaimed property owner's name.

The receipt process for DTC and DRS positions is provided in the previous response to item number 5. The same process for physical certificates as well as mutual funds and DRPs is provided below.

To ensure positions are received correctly for immediate deposit, each year Contractor reviews the Treasurer's reporting instructions to make sure they are accurate and provides recommended changes

Physical Securities

Contractor will work with the UPD when necessary to obtain the required stock powers and letters of incumbency for each certificate being deposited. Contractor will set up a nominee name. This nominee is assigned to the State of Michigan solely and will be used by the holders to register the securities to the Treasurer. By using this nominee name, Contractor is able to deposit the securities without obtaining the legal documentation from the Treasurer. This makes the deposits a much simpler and faster process. In addition, by utilizing this nominee name, positions are not co-mingled or registered to a master custodian account for receipt and delivery to the states account to prevent errors and provide for reconciliation long after the position is received which is important for unclaimed property programs.

If the UPD does not reject the certificates and return to the holders for re-registration, and depending upon how the certificate is registered, the UPD may be required to provide legal paperwork in order to deposit the securities to DTC such as stock powers, stock resolutions and in some cases transfer agent letters. Contractor suggests that in the case where these documents are required, they be delivered under separate cover from the original instruments as anyone who is in receipt of both the original instrument and the supporting documentation may act with his or her own instructions as the bearer to deposit, transfer or liquidate the security. If certificates are received and Contractor is not in possession of the required paperwork to process an item for re-registration, the UPD's account manager will inform of what paperwork is required. While Contractor awaits the receipt of the requested paperwork, the certificates will be deposited to the Treasurer's account, maintained in the vault and coded as such.

Mutual Funds & DRPs

Contractor has an automated process for maintaining Mutual Fund Accounts and DRPs (Dividend Reinvestment Plan) with a high attention to detail. Contractor will perform regular reconciliations of mutual fund holdings in the UPD's account. As statements are received at Contractor from mutual fund companies or forwarded by the Treasurer, they are compared with the account's holdings and verified on a daily basis. Any discrepancies, though rare, are resolved within 24-48 hours of identification.



Some fund companies only forward confirmation statements semiannually or at year end, making full reconcilements more difficult. Due to that inconsistency of updated balances, in addition to the daily processing and reconciliation of positions, Contractor performs two major reconciliations during the calendar year. The first takes place during the month of August (prior to reporting season) and covers the period of January through June, and the second takes place in January for the period of August through December (right after reporting season to account for all newly reported positions).

During these reconciliations, Contractor staff review all year-end statements or statements received from different fund companies for the preceding period, confirm that the Fund balances match the balances reflected on Workbench®, and file the statements for future reference. In the event that fund balances do not reconcile with the positions indicated on Workbench®, Contractor acts immediately to resolve the discrepancy by either communicating with BNY Mellon or directly with the Fund.

7. Secure physical stock and bond certificates in a vault.

Contractor will secure all physical stock certificates and bond certificates in the vault located at BNY Mellon’s vault facility in New York City. When any physical security is received at the reception area of the vault, an employee verifies the full description and amount of the security. After passing through the verification process, the security is delivered to the vault’s transfer area where its details are rechecked once again before it is sent out for re-registration and eventual deposit to DTC or other such depository. If there are discrepancies, they will be noted and the UPD contact or designee will be notified for follow up and resolution. Contractor will continue to work with UPD and applicable transfer agent to resolve the discrepancy.

From the time of receipt, the securities are coded on the custody system by specific location. The custody system tracks physical certificates through every step of the process (transfer, floor, vault, etc.). The systems are designed to accommodate all known securities regardless of asset type, currency and settlement location. All trade instructions are processed immediately upon receipt. The New York vault has real-time access to the custody management system and to the central processing units.

Contractor will deposit all eligible securities to the UPD’s account. If a security is ineligible for DTC deposit, Contractor will re-register to the state’s nominee name. If a certificate is not eligible for transfer or re-registration, or does not currently have an assigned market value, Contractor will communicate said information with detailed explanations to the UPD and place the securities in the vault. The UPD may provide further instruction as to whether Contractor should hold the certificate in the vault or if the Treasury wants to return the certificate to the holder. If the transfer agent confiscates the certificate, Contractor will obtain documentation confirming the confiscation and inform the Treasury of the confiscation so that the owner database may be updated accordingly.

When a physical security is acquired and reflected on the Custody Management System, the vault area reconciles the actual physical certificate to the instruction on the system. If all of the transaction criteria is met and verified, the security is sent out for re-registration or placed in the vault for safekeeping. Once the security is re-registered and returned from the transfer area, it is verified by two vault employees and then deposited into the vault.

The security movement and control system is a real-time processing system that reports interim status to track all security movements. The vault area will update the security location on the custody system when the security is delivered into/out of the vault for transfer and registration. Contractor standards for security registration are as follows:

From / To	Registration Duration
Physical to Depository	24 hours
Depository to Depository (i.e. Euroclear)	24 hours
Physical to Physical*	Agent within NYC – 72 hours
	Agent outside NYC – 15 days
Depository to Physical	Agent within NYC – 72 hours
	Agent outside NYC – 15 days

* This is only for standard securities. Unique investments, such as limited partnerships, have no set time.



8. Inventory securities at the current market value upon receipt.
9. Contractor will conduct research of old securities for potential value within 30 days of request.
10. Contractor will return to the UPD, any worthless or non-transferable securities with an explanation within 30 calendar days after the Contractor becomes aware of the issue.

These securities, if in physical form can be returned to the State or Contractor can maintain these positions.

Any securities that have been deposited to DTC and are classified as worthless upon determination of no market or low market value will be liquidated for proceeds of one penny (\$0.01) per position to remove the securities from the State's portfolio.

11. Contractor will assist Contract Compliance Inspector or designee in determining market value of securities not maintained by the Contractor, within 30 days of request.
12. Inventory securities at par value for those that do not have a market value upon receipt.

Contractor inventories securities that do not current have a market value at \$1.00. Once the research is performed on these securities and the issue has undergone any corporate actions, the new price per share will be assigned. There are securities that are listed on Workbench® that require extensive research in order to determine if they are worthless. Contractor performs this research and will then assign a market value if one is found, or if the position is worthless or potentially worthless, Contractor can liquidate the position so that the UPD does not incur a cost to maintain valueless securities.

13. Collect and record dividends, interest, and other cash receipts.

Contractor collects all dividends and interest income and allocates all income to the appropriate cusip numbers within the UPD's account. All income balances are reconciled on a daily basis to ensure that the UPD's account has been properly credited with the appropriate income. All income will be posted to the UPD's account on payable date. Cash transactions occurring within the UPD's account can be viewed at any time on Workbench® and all relevant details are provided in monthly reports as described in response to Section 1.042 Reports as well as in Exhibit C.

Contractor will post physical income received for certificates that are being held in the vault. Depending upon the registration of these certificates, the physical checks would come directly to Contractor and income would be posted or the checks may be delivered to the State if the registration address is that of the UPD. Contractor will also post this income from physical checks to the UPD's account once received.

There are instances in which physical income may be received when neither the Unclaimed Property Unit nor Contractor is in receipt of the underlying shares. Holders may issue the certificate and not deliver it, it may be in transit, or may be lost. Contractor will act upon instructions from the UPD in this instance. Contractor will post the income to the account and assist the UPD with identifying the underlying property or shares to ensure that the UPD will be able to track the property for eventual deposit of said property. This is a tool that can be utilized to trace property that was never received by holders and Contractor will assist the UPD in identifying this property.

14. Deposit dividends, interest, and other cash receipts in a money market account on a daily basis. These funds plus interest shall be transmitted, via wire transfer, at the end of each calendar month to the Michigan Department of Treasury or on any alternate schedule as directed by the Contract Compliance Inspector.

At the end of each day, the balance in the Treasury's account is automatically swept into the Treasurer's chosen investment vehicle.

15. Account for all corporate actions, such as mergers, stock splits, cash and stock dividends, etc.

Contractor processes all physical corporate actions for items being held in the vault in nominee name on behalf of the UPD. Actions on such items take longer to process, as they need to be mailed to the agents for any exchanges, etc. Any physical certificates received as the result of a stock split, distribution, etc., will automatically be deposited to the UPD's account.



There may be instances in which the UPD receives securities that have reached maturation but were not presented as a result of being classified as unclaimed property and are only now being reported. These securities are researched and presented to ensure that the UPD is properly credited with the appropriate funds. If it is determined that the securities have previously been presented for payment, Contractor will inform the UPD of such payment with all appropriate information required.

Mandatory Corporate Actions

Contractor collects and records all dividends, interest, and cash from corporate actions such as exchanges and all other cash receipts, and allocates the funds to the appropriate CUSIP numbers within the UPD's account. Contractor also redeems bonds at maturity, including coupons, and collects the proceeds. These securities are constantly monitored to ensure that they are presented at the time of maturity. All funds are posted to the UPD's account on payable date. All income and principal balances are reconciled on a daily basis to ensure that State's account has been properly credited with the appropriate income.

Contractor provides the UPD with detailed information of all corporate actions that have transacted in the account. This information is available on Workbench® as well as in the monthly reports delivered to the UPD. Information such as the number of shares or units on which income is being paid, the record and payable date, income amount, and market value of an asset may be viewed to assist with any reconciliations. The description of the corporate action is part of the transaction, in order to assist with any reconciliation. These transactions are also provided as part of the electronic submission provided and the standard monthly reporting package.

Voluntary Corporate Actions

Voluntary corporate actions are any actions on which the UPD (or owner) has a right to choose which option it would like to exercise, and Contractor promptly notifies of all voluntary corporate actions made by issuers of securities, including but not limited to offerings, exchanges, tenders, and consolidations. The notification is posted to the Contractor Extranet for an authorized UPD representative to view and act on. Further details on the Extranet are provided in Exhibit E. Contractor provides all of the necessary information for the UPD to make a decision and makes this information available on the Extranet. Additionally, all voluntary (and mandatory) corporate action information is available to view on Workbench®. The Extranet provides a cutoff-date as to when an option needs to be chosen and communicated back to Contractor. Contractor follows up with the UPD to ensure that the options are understood and an educated choice can be made. Contractor will then enter the instruction as received from the UPD and the action will be processed.

After choosing to take action on a given voluntary corporate action, the UPD receives confirmation of the response via email. The UPD can also utilize the Extranet and Workbench® to view which voluntary corporate actions are pending, those which have expired, and the options previously chosen, as these files are maintained on the website for as long as the UPD would like to see them. Contractor may operate on a standing instruction to take the 'default' option on all voluntary corporate actions.

The complete description of all corporate action postings is part of the UPD's monthly reporting package, specifically the Custody Transaction History, in order to assist with any reconciliation. This report is available to the UPD at the end of each month both online and in the electronic statements delivered to the UPD within the first two (2) business days of each month. These reports are described in further detail in response to Section 1.042 Reports, as well as Exhibit C of this proposal.

- 15.1 Custodian will conduct research as requested by the Contract Compliance Inspector or designee, on corporate actions such as mergers, name changes, discontinued corporations, etc. (see section 1.042 for report requirements). Such research will be completed within 30 days of request.
16. Liquidate securities at the direction of the Contract Compliance Inspector or designee. Such liquidation will be done within three working days after request.

On the 15th day of each month, Contractor creates a report of all securities that have been held for thirty days or are eligible for sale. Contractor records the date that each security position is received in order to be able to track the sale eligibility for each position. Contractor forwards this list of securities eligible for sale to the UPD for sign off and approval.



Once approval instructions are received, the Account Manager prepares an excel spreadsheet that lists: CUSIP number, security name, share amount, account number and account name. The Operations Manager verifies the file created by the Account Manager against the signed, authorized list sent to Contractor from the Department (this step is eliminated if liquidation files are sent directly to Contractor's Liquidation Console from an authorized source at the State. Contractor will work with the UPD to develop this automation if the UPD should so desire).

After the verification process is complete, the file is loaded to the Contractor Liquidation Console System. The system verifies that the UPD is holding an adequate position to cover the sale. Any rejections are forwarded to the Account Manager for review, who in turn works with the UPD to resolve the discrepancies. All good and valid securities systematically are sent to Morgan Keegan & Co, Inc. via secure FTP site. The requests are forwarded to Morgan Keegan & Co, Inc. daily at 10:00AM and 2:00PM. Morgan Keegan initiates the sale, which creates a transaction on BNY Mellon's Custody Management System (CMS) and in turn alerts the Account Manager that a sale is pending. In order for the sale transaction to settle, the Account Manager must actively verify each sale transaction, ensuring for a third and final time that all positions being sold precisely as requested by the UPD, and that the commission charges are calculated and applied correctly. Once verified, the transaction settles within three (3) business days and the applicable shares are delivered out of the UPD's account and sale proceeds are received. These shares are simultaneously marked as sold/settled in the Contractor Liquidation Console System.

For mutual funds, the process is similar to that as described. The Account Manager receives the UPD's instructions to liquidate, and instead of forwarding the request to Morgan Keegan & Co as with securities, the Account Manager forwards the sale request to the individual funds via BNY Mellon. These requests are processed directly at the fund companies, shares are debited from the account, and proceeds received. The turnaround time for a mutual fund liquidation is typically between 24-72 hours. However, some fund companies do not participate in FundWeb or otherwise require written instruction, which can result in a delay in the transaction's completion.

Reports

Contractor provides record keeping of all sales including sales proceeds, gross and net of commissions. Through Workbench® online reports, monthly reports, and custom data files which can be created upon request, Contractor provides the UPD with sales reports detailing the issue name, cusip number, number of shares sold, date settled, price per share, and net proceeds. Contractor will additionally provide a breakdown on the commission charge for each sale if requested by the State.

These reports may be used to see the progress of a sale or to monitor Contractor turnaround time on sale execution. By using Workbench® to access the information, UPD may sort it in a number of different ways depending upon the reason for the report. Workbench® will illustrate a pending status on the report for any securities that have been sold for Trade Date up to Trade plus 2. On Trade Date plus 3 (settlement date) the securities will settle into the State's account and the proceeds are available to be delivered to the UPD or invested in a money market account depending upon the preference of the Treasury.

UPD can schedule a report to run and be available each morning which will identify all securities sold and settled to the Treasury's account. This information can then be updated to UPS 2000.

17. Re-register shares from State of Michigan's name to unclaimed property owners at the direction of the Contract Compliance Inspector or designee. Such registration change will be requested from transfer agent within 3 days of request from Contract Compliance Inspector.

At any time, the UPD may access Workbench® to ensure that Contractor has entered the transaction and to see the status of the transaction. Contractor records all claimant information and claim number on all transfer transactions. If the information were to be provided, the Treasury would have another method of tracking these transfers (see Exhibit C for sample report).

Contractor transfers securities by DRS statement, certificate or direct deposit into a claimant's brokerage account via DTC to satisfy all claimant requests. Contractor provides the Treasury with online access to initiate and track these transfers utilizing the Contractor website, www.acsupch.com (Exhibit C for sample transfer request).

Contractor receives the request for the transfer of a security to an owner in writing including: the claimant name; social security number; mailing address and/or DTC number, receiving agents name and customer account number; issue name; CUSIP number; and number of shares/units to be transferred.



Upon submitting a request on the website, the user receives a confirmation that the transaction has been received along with a tracking number. The information that has been requested is displayed with the user name, time and date of request. To resemble the current procedures of dual authorization in which one individual would create the request and another review, authorize and sign the request, Contractor offers a second confirmation of receipt to be delivered to another separate authorized user via email. This ensures that more than one individual is involved with all transaction requests and that all information being requested may be tracked.

Contractor also utilizes dual authorization to initiate a transaction

If the UPD chooses to submit the request in written format rather than using the online submission, the request will be verified using the authorized signers list the Treasury provided for individuals authorized to make such transfer requests. Contractor will ensure that the Treasury is currently maintaining the position in the UPD account prior to initiating any transactions. Upon receipt and verification of request, Contractor will initiate the transfer within 24 hours and registration requested from transfer agent within 3 business days.

If there are any discrepancies with the number of shares/units requested to transfer and the number of shares/units currently being held, or if there are questions on the registration instructions, Contractor will coordinate with the Treasury for problem resolution. Once the discrepancy is resolved, Contractor will update the request and confirm with the Treasury for final authorization.

For physical certificates being issued and delivered, Contractor will confirm that the registration is correct prior to delivering the certificates to the Treasury or directly to the claimant if the Treasury chooses to have Contractor deliver directly to the claimant. Contractor will ensure accuracy as issued by the agent. If there are any discrepancies, Contractor will resolve the matter prior to involving the Treasury. If, for any reason, the adjustment of the error appears to possibly extend beyond the agreed upon turnaround time, Contractor will inform the Treasury of the issue and the reason, and follow up with the agent until problem is resolved and the certificate is issued and delivered.

Upon successful transfer of securities, Contractor settles the transaction to the Treasury’s account with a complete description of the transaction including information such as claim number if provided, registration name or owner name, along with the date of transaction, security and number of shares/units. This owner information is also included on the monthly statements ensuring easy tracking of the claim transfers for reconciliation and follow up. The claim number also may be tracked which could provide an automated means of updating the State’s owner database to reflect payments upon the creation of a file and interface.

A chart containing the current registration duration is provided below:

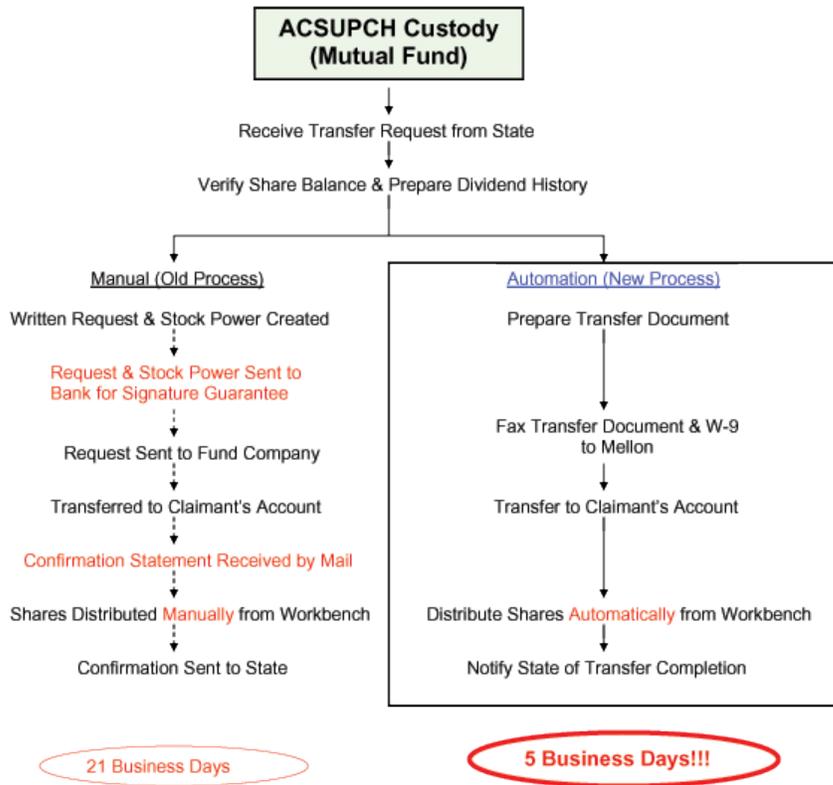
From / To	Registration Duration
Physical to Depository	24 hours
Depository to Depository (i.e. Euroclear)	24 hours
Physical to Physical*	Agent within NYC – 72 hours
	Agent outside NYC – 15 days
Depository to Physical	Agent within NYC – 72 hours
	Agent outside NYC – 15 days

These timelines are for registering the security once the request has been received, verified and input to Contractor’s system. Contractor receives, verifies and inputs the instructions within 24 hours of receipt for normal registration volumes. Once the certificates are issued and received and verified by Mellon, they will be mailed to Contractor for final verification, to the State or to the claimant directly depending upon the requirements of the UPD.

Mutual Funds

Contractor also processes mutual fund transfers. These funds are held in account and are processed in a way quite similar to that of DTC.

As the illustration in the following diagram shows, the time frame for transfers has been reduced from 21 business days to 3-5 business days which greatly improves the process for the UPD. Contractor’s flowchart which reduces tasks required of the UPD is listed below:



18. Send notifications or confirmations of securities sales, redemptions, or transfers to the Contract Compliance Inspector or designee, within five business days of the transaction.

Contractor provides the UPD with access to Workbench® to monitor all transactions including securities sales, redemptions and transfers.

Contractor can also schedule or UPD can schedule, using Workbench®, to receive transaction reports on a daily basis which will provide information on all income and principle received, and corporate activity, securities received from holders, delivered to claimants or liquidated. This can be available each morning for the prior day's activity.

Contractor processes all transactions within 24 hours of receipt in order to ensure prompt delivery of the securities or sales proceeds during normal processing volumes. If the Treasury has recently had an advertisement or is experiencing high claims activity there may be instances in which the transactions will be entered within 48 hours but these exceptions are rare.

19. Custodian must provide for medallion signature guarantee.

The UPD completes the stock powers or other document for medallion signature and forwards it to Contractor. Contractor then obtains a medallion signature guarantee and forwards back to the UPD.

Contractor's automated solution for mutual funds eliminates the need for medallion guarantees as transactions are entered and processed electronically.

20. Security lending will not be allowed in this Contract.

21. Remote Computer Access

Contractor provides the Treasury with the ability to connect electronically to Workbench®, BNY Mellon's Internet-based product. Workbench® can also be used to monitor Contractor and response to the input of transaction requests and sales.



Workbench® is an integrated site on the web that allows the State to have inquiry-only access to a variety of intellectual properties, reports, and transactions. This Client Reporting application is placed on a secure site on the World Wide Web. Using an existing Internet connection, this system operates directly from Internet Explorer or Netscape Navigator browser, and requires no additional software installation. This allows the Treasury access without installing separate applications and requires no updates to be made thus allowing access for the Treasury immediately once Contractor receives the required information.

All report information is available to the State on a 24x7 basis using Workbench®. Contractor will provide any additional training needed for a more full utilization of Workbench®, as required. This training is included in the current services to provide assistance in maintaining the State's portfolio and for other related tasks.

The UPD can select from a library of available reports to query, sort and download account data. The UPD may run these reports on demand or schedule them to run at a later time or on a permanent basis, for assistance with the reconciliation process. Workbench® Reporting offers the enhanced reporting capabilities of quickly changing the logical sort order within a report and drilling down as many as two levels to see selected data in greater detail.

A sample of the reports available has been provided in Exhibit C, Workbench®/Online Capabilities.

With online access to Contractor's system, the Treasury can easily retrieve any type of information required about a particular portfolio, a particular investment, even a single transaction. With online access, the Treasury will easily retrieve the account cash balances (cash and security value); account history (activity dating back two years); and current positions. In addition to those items, a wealth of information including the following types of data is also available:

- Domestic and global holdings (access to 15 months of historical holdings)
- Real-time cash and custody activity (such as cash forecast, cash availability, settled transactions, status of security registration, and failed trades)
- Dividends and Interest Received
- Foreign Exchange Transactions
- Tax Reclaims
- Shows all corporate actions, e.g., stock splits, mergers, dividends, etc. as they occur; including the period of time between trade date and settlement date
- Full multicurrency reporting in up to four currencies per transaction
- One statement detailing all investments, regardless of origin
- Marketed list of assets available in local and/or base currency

Additional features include the following:

- Provides online, on-demand access to comprehensive trust and custody information
- Customized menus

Leverages Microsoft Windows environment providing:

- Graphical user interface

- Multi-tasking capability

- Common user access

- Full integration of data with industry standard software packages

Fully exploits ease of use and the presentation-quality report creation capabilities of personal computers

Information can be automatically downloaded on demand

Compatible with a Local Area Network so multiple users can use the system simultaneously

Full service, support and training provided at no extra cost.

Refer to Exhibit C for sample standard reports available through Workbench®.

22. Security

22.1 Upon award of the Contract, the Contractor shall comply with State and Federal statutory and regulatory



requirements, and rules; National Institute of Standards and Technology (NIST) publications; Control Objectives for Information and Related Technology (COBIT); all other industry specific standards; national security best practices and all requirements herein.

In addition, the following table provides some insight into how the Contractor practices are related to the FIPS Publication 200 regarding “*Minimum Security Requirements for Federal Information and Information Systems.*”

Specification Reference	Comments
Access Control (AC)	Information systems access is limited to authorized users only. Access is provided on a ‘need to know’ basis based on job functions and roles.
Awareness and Training (AT)	All employees are required to undergo security training, Managers are required to ensure compliance with the awareness training for company policies and procedures.
Audit and Accountability (AU)	System access requires logins for authorized users. In addition, most functions log access and changes to data.
Certification, Accreditation, and Security Assessments (CA)	SAS 70 audits are conducted to verify that IT practices comply with policy and that operations safeguard information as required.
Configuration Management (CM)	Baseline configurations and inventory is maintained for organizational information systems. This includes hardware and software. Configuration management of production systems are maintained as part of data center operations.
Contingency Planning (CP)	Disaster recovery plans have been developed and are maintained current as part of our business operations. Disaster recovery drills are also exercised at data centers.
Identification and Authentication (IA)	User access is granted based on defined processes within the organization. Identification is based on user-ids for systems. Authentication is achieved by verifying passwords while accessing systems.
Incident Response (IR)	Production Systems are located in data centers with defined incident response procedures.
Maintenance (MA)	Hardware maintenance is scheduled at production sites. Industry standard tools are used for ongoing maintenance (enhancements and corrections) of software.
Media Protection (MP)	All paper reports are stored in secured locations. Contractor has a clean desk policy. Sensitive documents are stored in locked rooms with swipe card access. Electronic media is destroyed prior to disposing computers.
Physical and Environmental Protection (PE)	Contractor facilities are secured with access via swipe card to authorized individuals. On site computer server rooms are further secured with limited swipe card access. Production data servers are located at data centers with enforced practices for securing facilities, environment, and computing environments. All facilities have requisite environment protection with regards to temperature, fire, smoke etc.
Planning (PL)	Security plans have been developed at Contractor corporate and Contractor levels. These plans are reviewed and updated periodically per corporate policy.
Personnel Security (PS)	Contractor hiring practices involve background checks and drug testing. Any relevant third party contracts require specific non-disclosure agreements.
Risk Assessment (RA)	Risk assessment to organizational asset is based on the disaster recovery plans in force within Contractor
Systems and Services Acquisition (SA)	Any relevant third party contracts require specific non-disclosure agreements. Installation access restrictions have been outlined earlier.
System and Communications Protection (SC)	Inter-company communications are managed via secured and/or encrypted file transfers. email has an encryption facility built in for sensitive communications. Intra-company data transfers are handled directly between systems which are behind firewalls.



System and Information Integrity (SI)

Contractor systems are protected against malicious code and penetration attacks. Security updates provided by vendors are applied promptly to systems. Production system alerts are monitored by data center personnel as well as system support personnel.

22.2 Governing Security Standards and Publications

Contractor must comply with the following standards and publications:

- a. National Standards: An introduction to Computer Security”, National Institute of Standards and Technology, Computer Resource Security Center (see <http://csrc.nist.gov/publications/nistpubs/800-12/handbook.pdf>)
- b. Michigan Social Security Number Privacy Act 454 of 2004. A copy of the Act can be obtained on the Michigan Legislature website at www.michiganlegislature.org
- c. Michigan Identity Theft Protection Act (2004 Public Act 452, as amended by Public Act 566 of 2006). A copy of the Act can be obtained on the Michigan Legislature website at www.michiganlegislature.org.

22.3 Access Control: 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. Access must be immediately removed when a staff member changes job duties or leaves employment.

22.4 Data Security: The Contractor has the responsibility to 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 electronic, paper or other physical form).

All sensitive information is appropriately identified and protected from dissemination into the public domain. When appropriate, sensitive information is marked as confidential to assure that the information is identified as sensitive and appropriately handled. When storing or transmitting confidential, non-private information, security mechanisms are used to protect the information. Contractor has the capability of securely transmitting data with Secured FTP with SSL and SFTP with SSH. Additionally, social security numbers have been carefully removed from reports and screens, and hardcopy documents that contain this information are stored in a secured area during non-business hours. Any emailed files containing social security numbers are encrypted for security purposes.

When destroying confidential, non-public information, whether electronic or printed, it is destroyed in accordance with Contractor policy so that the information cannot be disseminated. This includes the shredding of printed information, and the destruction of electronic files in conformity with the specifications of the particular operating platform. Disks and drives are destroyed in a way so as to render them inoperable and irreparable.

Contractor applies industry-standard information security policies and practices to the exchange, storage and processing of such Personal Identification Information (PII). These practices are primarily aimed at minimizing the risk of PII being exposed to unauthorized parties.

22.5 Fraud Controls: All necessary security to guard against fraudulent access, fraudulent creation, and fraudulent receipt of the State’s files or items on files must be included in the processing.

Contractor Response to Task:

22.6 Physical Security: The Contractor must provide the physical security controls necessary to ensure controlled access to State data. Physical access controls for all Contractor facilities, equipment, and applicable systems must be addressed.

22.7 Audit Logs

- a. The Contractor must (i) create, protect, and retain information system audit log records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity, and (ii) ensure that the actions of individual information system users can be uniquely traced to those users so they can be held accountable for their actions.



b. The Contractor shall observe the following guidelines regarding system auditing:

(1) Audit logs must contain the following:

- date and time of the event
- subject identity
- type of event
- how data changed
- where the event occurred
- outcome of the event.

(2) System alerts if audit log generation fails.

(3) System protects audit logs from unauthorized access.

(4) Audit record should be reviewed by individuals with a “need to know” on a regular basis.

(5) Audit logs are retained for sufficient period of time per section 1.022.26.8.

22.8 Incident Reporting

- a. The Contractor must immediately notify any security incidents and/or breaches to the Contract Compliance Inspector.
- b. The Contractor must have a documented and implemented Incident Response Policy and Procedure.
- c. The Contractor must have an incident handling form for consistent, repeatable process for monitoring and reporting when dealing with incidents.

22.9 Disaster Recovery and Business Continuity Plan

- a. The Contractor must have developed, periodically updated, and regularly tested disaster recovery and business continuity plans designed to ensure the availability of State data in the event of an adverse impact to the Contractor's information systems due to a natural or man-made emergency or disaster event.

See Exhibit F for an overview of a recent disaster recovery exercise performed on Contractor systems. Contractor's full disaster recovery and business continuity plan can be provided to the Treasurer upon request.

Also included as Exhibit G is a summary of BNY Mellon's business continuity and disaster recovery practices.

- b. The Contractor will provide the Contract Compliance Inspector after Contract award with a Summary and access to their disaster recovery plan indicating the Contractor's backup sites (cities).
- c. The Contractor must perform annual testing of all security control requirements to determine they are working as intended. Annual certification must be provided in writing to the Contract Compliance Inspector or designee in the form of a SAS70 report within 30 days of completion of the audit report.

Contractor is subject to audit by various entities, including internal and external auditors, it's contracting government clients, and federal regulatory authorities. No less frequently than every 18 months, the Contractor undergoes as service auditor's review, or “SAS 70” audit. This “SAS 70” does not cover the Custody line of business, but the portion of BNY Mellon's “SAS 70” fulfills this requirement.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

Contractor must provide a project manager to act as a central point of contact for all contractual activities. An organizational chart is provided as Exhibit I.

The project manager for the State of Michigan will be Marsela Strakosha, Account Manager. She is supported by Vilka Markovich, the Assistant Vice President of the Custody department.

**Nancy Froude, Esq., Managing Director*****Managing Director responsible for all service delivery and client satisfaction***

Nancy Froude is the Managing Director of the Contractor. Nancy manages the day to day operations of all aspects of unclaimed property reporting, recovery, and related services to Contractor's clients.

John DeMarco, Senior Vice President and Chief Operating Officer***COO responsible for all operations and ensuring service delivery for the Michigan Department of Treasury***

John DeMarco is Senior Vice President and Chief Operating Officer of Contractor. John is responsible for overseeing all operations of Contractor.

Lynden Lyman, Esq., Senior Consultant***Over 25 years experience in unclaimed property law and auditing and is considered one of the leading unclaimed property experts in the U.S.***

Lynden Lyman is Senior Consultant and Advisor to the Contractor.

Jeremy Katz, Vice President of Sales & Account Management***Vice President responsible for overall service relationship and primary contact for the Michigan Department of Treasury***

Jeremy Katz is responsible for identifying client business needs, expanding existing accounts, maintaining client relationships and developing new service offerings. He leads the Contractor's Sales and Marketing areas, along with the Sales & Account Management Program. This program is designed to foster better and more frequent communication between the Contractor and its state clients and provides each state with designated primary and secondary sales & account managers accountable to that state. Jeremy also manages the MissingMoney.com national program.

Kate Stevens, Vice President of Audit Compliance & State Services***Vice President responsible for State Services Operations, Custody Services***

Kate Stevens oversees the Audit Compliance and Quality Assurance areas of Contractor. In this role, Kate monitors workflows and quality production of all audit processing functions of initial and annual compliance. Kate also manages State Services which includes the Securities Custody, Claims Processing and State Holder Reporting areas of Contractor.

Vilka Markovich, Assistant Vice President***Operations Officer responsible for all contractual requirements and delivery of all services required in this Contract.***

Vilka is the Assistant Vice President responsible for managing the Securities Custody and Mutual Funds operations area. In this role, Vilka is responsible for the daily management of operations and personnel for the Custody Services Unit. Vilka provides staff support and training to a team of five Custody Accountants or Account Administrators.

Vilka also manages subcontractors, Bank of New York Mellon and Morgan Keegan.

Marsela Strakosha, Account Manager***Account Manager and primary contact for the UPD for all services required in this Contract. As Account Manager, Marsela will be dedicated full –time to the UPD, will be the daily contact for any and all questions and will coordinate and monitor all activity within the UPD's account, if awarded the contract.***

Marsela is a Mutual Fund Account Administrator. She is responsible for the mutual fund and dividend reinvestment (DRP) processing for several state unclaimed property programs. In this role, she notifies clients when securities meet the state's eligibility criteria for liquidations, and liquidates them upon state authorization. She is additionally responsible for receiving mutual fund statements and centralizing the funds in accounts for various states, as well as verifying and depositing physical checks into state accounts.

Loreta Pengo, Account Manager***Loreta will support Marsela as the secondary contact for the UPD and will be available to the UPD in the event of***

***Marsela's absence.***

Loreta Pengo is a Senior Account Administrator in the Custody Services unit. Loreta is responsible for the daily customer support of her state clients as well as the overall management of their portfolios. Additionally, Loreta prepares monthly billing statements for her states and researches outstanding issues.

Tom Grande, Vice President

Client Service Officer, Bank of New York Mellon

Tom Grande is a Vice President and Client Service Officer for the Bank of New York Mellon. Tom is the primary contact and resource for Contractor on all matters related to its partnership agreement.

Ronald Tillett, Managing Director

Public Finance, Morgan Keegan & Company, Inc.

Ron is a Managing Director in Morgan Keegan's Richmond, Virginia Office. Ron focuses on the asset management and underwriting needs of public clients throughout Virginia and the United States.

As with any of Contractor's services, Contractor will review and discuss current procedures, make any necessary modifications, and ensure expectations are being met to make the best use of resources. Contractor will additionally present other solutions to make overall improvements to the services and reduce costs for the State whenever possible.

1.040 Project Plan**1.041 Project Plan Management**

1. The Contractor will carry out this project under the direction and control of the Contract Compliance Inspector (see section 2.022).
2. Although there will be continuous liaison with the Contractor team, the Contract Compliance Inspector or designee will meet as needed with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.
3. The Contractor will submit brief written summaries, as requested, of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated which should be brought to the attention of the Contract Compliance Inspector or designee; and notification of any significant deviation from previously agreed-upon work plans.

1.042 Reports

1. Monthly reports required by the State must be on paper and electronically available if requested. They are due within 10 business days after the end of each month.
2. Monthly Transaction Report
 - a. The Monthly Transaction Report must list all transactions/corporate actions during the month.
 - b. The listing must be sorted by date order first, then by issue name.
 - c. The Monthly Transaction Report must indicate the total cash receipts for the month, as well as a breakdown summary for the following types of cash receipts:
 - (1) Dividends
 - (2) Interest
 - (3) Maturities/Sales.

3. Monthly Securities Inventory

The Monthly Securities Inventory report must include the month-end inventory and be listed in alphabetical order by security name. The Monthly Securities Inventory report must list all securities held as of the last day of the month and must include the following:

- a. Name of issue in alpha order



- b. CUSIP number
- c. Number of shares per issue
- d. Market value per share of each issue
- e. Total market value of each issue
- f. Total market value of all securities in portfolio.

An example of monthly account balance and transaction statement is provided in Exhibit C. Contractor provides the sale activity report provided in Exhibit C, for the delivery of all sale proceeds at the end of each monthly reporting period.

Contractor will work with the Treasury to reduce the amount of time spent by UPD personnel on keying information, such as claim transfer requests and could work on electronically or systematically submitting the information via the current system, reducing duplication. This could be done through building an interface or a program on the Owner Database to generate the requests in a format that meets our system requirements and specifications.

Some of the products and tools that are available to the Treasury that assists with creating data files and reports:

Report Generation is easy with all of the tools provided to the Treasury with online access. A browser-based reporting tool within Workbench® includes a series of cash, custody, accounting, and GSL reports/file downloads that the Treasury may use. Contractor provides a state-of-the-art information delivery product that provides the Treasury with on-demand, easy access to comprehensive portfolio information. Any authorized Treasury employee can access information on an individual or consolidated basis to effectively administer, manage, reconcile and evaluate the accounts and portfolios. Contractor provides a report builder application that will allow the authorized user to construct ad hoc queries against data in the mainframe database.

Client Statements functions as an online file cabinet for online access and storage of accounting reports.

Real-Time Custody provides up-to-the-second status of transaction and custody positions.

Reports include a Cash Worksheet, a Custody Transaction History, and a Security Valuation. Samples of these reports can be found in Exhibit C.

The Cash Worksheet includes the cash history for the account. It summarizes the beginning balance and the ending balance of each day, the number of transactions for each transaction type, and all cash deposits and withdrawals for the specified transaction type. Principal and income amounts in cash are listed in separate columns in this report. Contractor uses this report to determine the amount that is to be remitted to Michigan each month.

Custody Transaction History displays in detail all settled transactions that have occurred in the account during the given month, including cash and non-cash transactions. The cash transactions in this case are sales, interest payments, cash dividends, cash withdrawals and corporate actions resulting in cash. Non-cash transactions such as security deposits, security transfers and corporate actions will also be displayed on the Custody Transaction History. All transactions are sorted first by settlement date, then by transaction type.

Security Valuation includes all securities that Michigan held at the last business day of each month along with the share unit price and the market value. The securities are separated in different sections by asset type, i.e.: fixed income securities, preferred securities, convertible securities, equity, real estate, and venture capital. The total share amount and the total market value for each asset type is given at the end of each section. At the end of the Security Valuation, the total share amount and the total market value will be provided. In addition, the location of any securities held by Michigan can be determined using this report, which is crucial information with regard to sales and transfers.

As an additional tool for performing inquiries, eReporting enhances Michigan's ability to obtain information about the account. Listed below are some of the reports, and further details regarding how Michigan can use these reports can be found in the Exhibit C.

Cash

Cash Balances



Cash Statement

Cash Transaction Inquiry

Cash Worksheet

Custody Positions

Custody Holdings

Custody Valuation

Custody Transactions

Custody Security Transactions

Pending Trades

Accounting Positions

Lot Level Valuation

Each report can be exported to Excel to perform sorting and other actions as needed by the UPD.

1.050 Acceptance – Deleted/Not Applicable

1.060 Proposal Pricing

1.061 Proposal Pricing

1. For authorized Services and Price List, see Attachment A.
2. Reserved
3. 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/dmb for current rates.

1.062 Price Term

(X) Firm Fixed Price

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

1.063 Tax Excluded from Price

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

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

1.064 Holdback – Deleted/Not Applicable

1.070 Additional Requirements – Deleted/Not Applicable



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of three years beginning February 1, 2010 through January 31, 2013. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

2.006 Order of Precedence

(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**

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

Jim Wilson
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: wilsonj4@michigan.gov
Phone: 517-241-1916

2.022 Contract Compliance Inspector (CCI)

After DMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with Department of Treasury, 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 this 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 DMB Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Gonzalo Llano, Manager
Department of Treasury
Unclaimed Property Division.

2.023 Project Manager – Deleted/Not Applicable

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

2.025 Notices

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

State:

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

Contractor:

ACS Unclaimed Property Clearinghouse
ATTN: Jeremy Katz
260 Franklin Street
11th Floor
Boston, MA 02110

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 this Contract. Contractor may change the representatives from time to time upon written notice.

**2.027 Relationship of the Parties**

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

2.028 Covenant of Good Faith

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

2.029 Assignments

(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 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 Media Releases**

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

2.032 Contract Distribution

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

2.033 Permits

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

2.034 Website Incorporation

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

2.035 Future Bidding Preclusion

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



2.036 Freedom of Information

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

2.037 Disaster Recovery

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

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

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

2.042 Adjustments for Reductions in Scope of Services/Deliverables

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

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General

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

(b) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

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

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

The 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.

2.045 Pro-ration

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

**2.046 Antitrust Assignment**

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

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

2.050 Taxes**2.051 Employment Taxes**

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

2.052 Sales and Use Taxes

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

2.060 Contract Management**2.061 Contractor Personnel Qualifications**

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

2.062 Contractor Key Personnel

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

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

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



detail outlining the reasons for the rejection.

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

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

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

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

2.064 Contractor Personnel Location

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

2.065 Contractor Identification

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

2.066 Cooperation with Third Parties

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

2.067 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 will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider 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 shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.

2.072 State Consent to Delegation

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

2.073 Subcontractor Bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities**2.081 Equipment**

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



2.082 Facilities

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

2.090 Security

2.091 Background Checks

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

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

2.092 Security Breach Notification

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

2.093 PCI Data Security Requirements - Deleted/Not Applicable

2.100 Confidentiality

2.101 Confidentiality

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

2.102 Protection and Destruction of Confidential Information

The State and Contractor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will limit disclosure of



the other party's Confidential Information to employees and Subcontractors who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect the Confidential Information from unauthorized use or disclosure.

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

2.103 Exclusions

Notwithstanding the foregoing, the provisions 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 this Contract for any reason.

2.110 Records and Inspections

2.111 Inspection of Work Performed

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

2.112 Examination of Records

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

**2.113 Retention of Records**

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

2.114 Audit Resolution

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

2.115 Errors

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

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

2.120 Warranties**2.121 Warranties and Representations**

The Contractor represents and warrants:

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

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

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this 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 this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

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

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



- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.
- (l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.
- (m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the Contract.
- (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

2.122 Warranty of Merchantability

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

2.123 Warranty of Fitness for a Particular Purpose

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

2.124 Warranty of Title

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

2.125 Equipment Warranty – Deleted/Not Applicable



2.126 Equipment to be New

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

2.127 Prohibited Products

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

2.128 Consequences For Breach

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

2.130 Insurance

2.131 Liability Insurance

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

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

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

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

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

See www.michigan.gov/dleg.

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

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

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

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



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

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

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

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

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

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

5. Employee Fidelity, including Computer Crimes, insurance including the State as a joint loss payee as their interests may appear, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).

6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.

8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.

2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) must fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies



WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.140 Indemnification

2.141 General Indemnification

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

2.142 Code Indemnification

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

2.143 Employee Indemnification

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

2.144 Patent/Copyright Infringement Indemnification

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



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

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

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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

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

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

2.150 Termination/Cancellation

**2.151 Notice and Right to Cure**

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

2.152 Termination for Cause

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

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

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

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

2.153 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least 120 days before the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for Non-Appropriation

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

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



(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be 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 this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense related to a State, public or private Contract or subcontract.

2.156 Termination for Approvals Rescinded

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

2.157 Rights and Obligations upon Termination

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

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

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

2.158 Reservation of Rights

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

2.160 Termination by Contractor

2.161 Termination by Contractor

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



The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.190** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates this Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 90 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

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

2.174 Contractor Software Transition

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

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of this 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 will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to 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 will conform to the requirements of **Section 2.024**.

2.183 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, 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 be 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 this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

- (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 will be honored in order that each of the parties may be fully advised of the other's position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.



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

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

2.193 Injunctive Relief

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

2.194 Continued Performance

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

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

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

2.202 Unfair Labor Practices

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

2.203 Workplace Safety and Discriminatory Harassment

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

2.204 Prevailing Wage

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

The Contractor, its subcontractors, their subcontractors and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the



wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

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

2.210 Governing Law

2.211 Governing Law

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

2.212 Compliance with Laws

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

2.213 Jurisdiction

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

2.220 Limitation of Liability

2.221 Limitation of Liability

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

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 this Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a Subcontractor) to continue to perform this 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 this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:

- (a) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
- (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 DMB Purchasing Operations.
- (2) Contractor must also notify DMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor must also notify DMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.232 Call Center Disclosure – Deleted/Not Applicable

2.233 Bankruptcy

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

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

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

2.240 Performance

2.241 Time of Performance

(a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

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

2.243 Liquidated Damages - Deleted/Not Applicable

2.244 Excusable Failure



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

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

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

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

2.250 Approval of Deliverables

2.251 Delivery Responsibilities

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

- (a) Shipment responsibilities - Services performed/Deliverables provided under this 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 will be specified on the individual purchase order.
- (b) Delivery locations - Services will be performed/Deliverables will 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 will 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 will 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 will 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 will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected 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 will 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 will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected 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 will 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 will be made at no additional charge.

Upon receipt of a corrected Deliverable from the Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected 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 – Deleted/Not Applicable

2.262 Vesting of Rights – Deleted/Not Applicable

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 will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general



public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

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

2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

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

2.272 Acceptable Use Policy

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

2.273 Systems Changes

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

2.280 Extended Purchasing

2.281 MIDEAL

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

The Contractor will supply Contract Services and equipment to these local governmental agencies at the established State of Michigan contract prices and terms to the extent applicable and where available. The Contractor must send its invoices to, and pay the local unit of government, on a direct and individual basis.

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

2.282 State Employee Purchases - Deleted/Not Applicable

2.290 Environmental Provision

2.291 Environmental Provision

Energy Efficiency Purchasing Policy – The State seeks wherever possible to purchase energy efficient products. This



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

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

Hazardous Materials:

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

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

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

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **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 shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this Contract.



Environmental Performance:

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

2.300 Other Provisions – Deleted/Not Applicable



Attachment A, Price Proposal

Tasks	Monthly Unit Cost	Estimated Monthly Volume	Estimated Monthly Subtotals
1. Monthly Maintenance Fee			
a. for securities held at DTC	\$6.00	300	\$1800.00
b. for physical securities held	\$6.00	30	\$180.00
2. Corporate Actions			
a. for securities held at DTC	No Charge (included in Monthly Maintenance Fee)	20	\$0.00
b. for physical securities held	No Charge (included in Monthly Maintenance Fee)	5	\$0.00
3. Receipt of Securities			
a. through DTC account	\$15.00	100	\$1500.00
b. physical securities	\$15.00	20	\$300.00
4. Liquidation of Securities			
a. for securities held at DTC	\$15.00*	100	\$1500.00
b. physical securities	\$15.00*	20	\$300.00
5. Transfer of Securities to Claimant's name			
a. for securities held at DTC	\$20.00	5	\$100.00
b. for physical securities	\$182.00**	5	\$910.00
6. Medallion Signature Guarantee Requests	No Charge	10	\$0.00
7. Other Charges (please explain)			
a. Monthly Account Administration Fee	\$208.33 (\$2,500 annual pass- through charge)	1	\$208.33
b. Wires / Checks	\$15.00	Unknown	
c. Mailing Cost (Certificates to State/Claimant)	\$6.00	Unknown	
d. On-line access: Workbench and Extranet	No Charge		\$0.00
e. Mutual Funds – Monthly Maintenance (per position)	\$6.00	Unknown	
f. Mutual Funds – Receipt	\$25.00	Unknown	
g. Mutual Funds – Transfer to Claimant's Name	\$25.00	Unknown	
h. Mutual Funds – Liquidation	\$25.00	Unknown	
Estimated Monthly Total			\$6,798.33
Estimated 3-Year Grand Total			\$244,740.00



* Commissions: For each sale transaction (excluding worthless sales), a commission is calculated and deducted from the gross sale proceeds at the Broker level, according to the following formula:

- \$0.06 per share commission for any position (lot) of 100 shares or more;
- \$6.00 flat commission for any position (lot) under 100 shares;
- Commission is waived for any sale where the gross proceeds are less than or equal to the calculated commission rate;
- No commission for worthless sales.

** Effective August 1, 2009, the Depository Trust Company (DTC) announced another fee increase for the issuance of physical certificates. As a result, the fee for transferring shares physically into an owner's name for those companies that cannot issue DRS statements is \$182.00. Should an owner or the State request that a physical certificate be issued when the security is DRS eligible, rather than receiving a statement, there is an additional \$500.00 fee (\$682.00 total). No future fee increases have been announced by DTC at this time, however if any additional increases are announced, Contractor will notify UPD of the effective date upon receipt of the notification from DTC and will pass on the increase to UPD as of the effective date.

In addition to the transaction pricing structure above, Contractor can also provide, upon request, a commission-only-based pricing structure if the UPD would like to deduct fees from the liquidation of positions.