



Michigan Department of Natural Resources – Procurement Services
P.O. Box 30028, Lansing, MI 48909
OR
530 W. Allegan, Lansing, MI 48933

NOTICE OF CONTRACT NO. 751B4300004
Between
STATE OF MICHIGAN
and

Required by authority of 1984 PA 431, as amended.

/Name and Address of Contractor QCI Inc. 1145 Old US Hwy 23 Brighton, MI 48114	Primary Contact Joe Bennett	
	Email jbennett@quanta-inc.com	
	Telephone (810) 227-3046	Contractor #, Mail Code *****5796/001

State Contact	Agency	Name	Telephone	Email
Contract Compliance Inspector	DNR	Denise Gruben	(517) 335-4036	Grubend@michigan.gov
Buyer	DNR	Jana Harding-Bishop	(517) 373-1190	HardingJ3@michigan.gov

Contract Summary			
Description (Provide a basic but comprehensive description of services) License stock, ribbons and receipt paper for DNR retail sales of various licenses			
Initial Term 3 years	Effective Date 10/15/2013	Initial Expiration Date 10/15/2016	Available Options 3 - 1 year
Payment Terms .005 (1/2%) Net 12	F.O.B. Destination	Shipped Per Specifications	Shipped From N/A
Minimum Delivery Requirements See Attachment A		Alternate Payment Options <input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV)	Available to MiDeal Participants <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Miscellaneous Information The terms and conditions of this Contract are those of ITB #RFP-JH-MO-751R3200778, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION: \$1,002,177.00			



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 P.O. Box 30028, Lansing, MI 48909
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Required by authority of 1984 PA 431, as amended.

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	Email jbennett@quanta-inc.com	
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THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. RFP-JH-MO-751R3200778. Orders for delivery will be issued directly by the Michigan Department of Natural Resources through the issuance of a Purchase Order Form.

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

FOR THE CONTRACTOR:

QCI Inc

 Firm Name
 On-file in DNR Procurement

 Authorized Agent Signature
 Joe Bennett

 Authorized Agent (Print or Type)
 10/11/13

 Date

FOR THE STATE:

On-file in DNR Procurement

 Signature
 Sharon Walenga-Maynard

 Name/Title
 DNR/Finance and Operations

 Department/Division
 10/14/13

 Date

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Definitions

This section provides definitions for terms used throughout this document.

Business Day - whether capitalized or not, means any day other than a Saturday, Sunday, State employee temporary layoff day, or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am through 5:00pm Eastern Time unless otherwise stated.

Buyer – the DNR-Procurement employee identified on the cover page of this RFP.

Chronic Failure - as defined in applicable Service Level Agreements.

Contract – based on this RFP, an agreement that has been approved and executed by the awarded bidder, the DNR-Procurement Director, and the State Administrative Board.

Contractor – the awarded bidder after the Effective Date.

Days - Business Days unless otherwise specified.

Deleted, Not Applicable - the section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

Deliverable(s) - physical goods or commodities as required or identified in a Statement of Work.

Eastern Time – either Eastern Standard Time or Eastern Daylight Time, whichever is prevailing in Lansing, Michigan.

Effective Date - the date that a binding contract is executed by the final party.

Final Acceptance - has the meaning provided in Section 2.8.7, Final Acceptance, unless otherwise stated in Article 1.

Key Personnel - any personnel designated as Key Personnel in Sections 1.3.3, Staff, Duties, and Responsibilities, and 2.4.2, Contractor Key Personnel, subject to the restrictions of Section 2.4.2.

Post-Industrial Waste - 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.

Purchase Order - a written document issued by the State that requests full or partial performance of the Contract.

State - the State of Michigan.

State Location - any physical location where the State performs work. State Location may include state-owned, leased, or rented space. For purposes of this RFP and subsequent contract, work may include retail agent locations in Michigan, surrounding states and potentially Canadian Provinces.

Stop Work Order - a notice requiring the Contractor to fully or partially stop work in accordance with the terms of the notice.

Subcontractor - a company or person that the Contractor delegates performance of a portion of the Deliverable(s) to, but does not include independent contractors engaged by the Contractor solely in a staff augmentation role.

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

Article 1 – Statement of Work

1.1 Project Identification

The Department of Natural Resources (DNR) has roughly 1,400 license agents that sell hunting, fishing and outdoor recreational vehicles (ORV) licenses and snowmobile permits, and provides those agents with Point of Sales (POS) equipment and consumables. This contract is for license stock, ribbons and receipt paper consumables for use with the POS and Retail Sales System (RSS) for the DNR.

1.1.1 Project Request

This is a Statement of Work (SOW) for the contractor to provide license stock, ribbons and receipt paper. The work also includes the annual packaging and distribution of a half-year's supply of the produced materials to individual retail agents and the balance to the fulfillment center. Shipping costs are not included in this contract.

1.1.2 Background

The DNR sells hunting, fishing, off road vehicle (ORV) licenses and snowmobile permits via a Point-of-Sale (POS) system. The license labels are printed on Zebra GK420t printers.

The sale of these licenses and permits allows customers to lawfully enjoy outdoor pursuits. The revenue generated by these sales supports the maintenance of the user's outdoor experience.

1.2 Scope of Work and Deliverable(s)

1.2.1 In Scope – [Deleted, Not Applicable]

1.2.2 Deliverable(s)

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

In each year of the contract, the Contractor must:

- Provide sample stock (in color assigned for the year) and ribbon sample for testing prior to production.
- Request license agent address file 30 days prior to shipping kits
- Once the stock and ribbon combination has been approved, produce the requested amount of stock and ribbon
- Assemble the proper number of kits as requested by the Project Manager
- Deliver kits to the RSS agents listed in that year's address file no later than February 15 of each calendar year.
- Send all remaining stock materials to DNR designated RSS fulfillment center (currently located in Brighton, MI) no later than March 1st of each calendar year.
- Send all remaining ribbons to DNR designated RSS fulfillment center.
- Send all thermal receipt paper to the RSS fulfillment center as requested to replenish supply.

License Stock

Stock Quantity: 100,000 MSI = 6,500,000 **finished** labels per license year. DNR will allow up to 1% overruns to be accepted but NO under runs.

Stock Detailed Requirements:

1. Valeron or other stock material that meets or exceeds requirements for quality and value.
2. Thickness of the material face stock will be 4 Mil.
3. The adhesive on the back of the face stock will be NASTar P6100 or comparable.
4. The liner will be 40lb SC.
5. Color to be impregnated through the license material or color coated.
6. Finished labels to be 3 3/8" wide by 4" long.
7. Finished liner to be 3 1/2" wide and perforated every 4/1/8"
8. Finished labels to have a 7/010 perforation between tags
9. A liner is to be used that has a low level of opacity to allow light through so that the printer can

sense the top of label.

10. The back of the liner will include the text for license year 2014 – DNR reserves the right to change this language from year to year. The DNR will provide font size and face at the time PO is issued.

Thank you for your purchase.

To get news and information from us,

Visit www.michigan.gov/dnr and click on

“sign up for email from the DNR”

REPORT ALL POACHING (RAP) RAP HOTLINE: 1-800-292-7800

When hunting, trapping or fishing, you must carry your license and the identification used to purchase that license and must exhibit both upon demand of a conservation officer, a tribal conservation officer, or any other law enforcement officer.

11. The front of the liner must include the current year DNR Logo in white to contrast the stock color (see attachment B)
12. Material to be converted to 6,500,000 finished labels with 300 labels per roll on a 1 inch core of equal width to the liner of 3 ½” with the end of each roll taped in place not glued.
13. Test stock rolls and ribbons to be provided no later than January 5th, prior to the production run, for final approval and testing by DNR.

Current Stock Color Rotation (by year):

- 2014 = PMS 375C, green
- 2015 = PMS 1505C, orange
- 2016 = PMS 2572C, purple
- 2017 (Option Year) = PMS 375C, green
- 2018 (Option Year) = PMS 1505C, orange

The DNR, at its discretion, may elect to change to a 2 color rotation or to procure the same color in subsequent years.

The contractor must deliver a finished stock and ribbon that meets or exceeds the requirements identified below. Any issues or problems with the stock, liner, ribbons, or the requirements identified that will affect the finished product must be identified and worked out before each new year’s stock is converted. For this requirement, the contractor must annually test a sampling of the stock material to ensure compatibility among components and meeting of the specified requirements.

Definite specifications - All Deliverable(s) must conform to the specifications.

Stock Label Requirements:

- Labels are required to be UV resistant, adhere to surfaces from -20 (snowmobiles) to over 100 degrees F^o (ORV).
- Maintain color and ink when the face of stock is wet and rubbed together.
- Maintain color and ink when washed with water, soap, or cleaning solvents (e.g., Fast Orange).
- Must be able to be written on with ball point pen to capture a signature.
- Must be durable and strong to resist damage and mutilation caused by use in the field.
- Must maintain print integrity for up to a year when exposed to all types of weather and conditions normally found outdoors when hunting, fishing, or recreating outdoors.

Testing:

Each year the Contractor must test a minimum of 20-25 labels with the contracted ribbon to ensure that labels meet the contract requirements.

The Contractor must provide test results as well as 20-25 labels for the DNR to counter-test by January 5th of each year and must not produce the balance of the labels until the DNR has provided approval to do so. The DNR has 14 days to complete their testing and provide feedback to the Contractor.

Samples will be tested yearly in all the following ways:

- Wetting stock with water and rubbing together.
- Citric solvent, i.e. Goo Gone, will be applied and rubbed with a plain white cloth or paper towel.
- The stock will be applied to a can and placed in a dishwasher through washing cycles.
- The stock will be notched bi-directionally with a good amount of pressure applied to see if it will run when cut or nicked.
- The stock will be applied to a can and placed in the sun for several days.
- The stock will be applied to a can and placed in the freezer for several days.
- The stock will be tested to insure that color does not lift off with any form of tape or the stock adhesive.
- Submitted stock will be verified against and measured for compliance with detailed requirements listed above.

Ribbon

Ribbon Quantity: 10,335 ribbons per license year for printing license information on the stock with additional ribbon quantity to cover any stock overrun on a 2 rolls of stock to 1 roll of ribbon ratio.

Ribbon Requirements: Each ribbon will be 3.75" X 210 feet Resin ribbon on ½ inch double notched core that measures 4 ¼" long with ¼" of the core protruding on each side of the ribbon. The Contractor is responsible for ensuring the ribbon printing quality to the stock, and the adhesion of the ink on the stock to meet the requirements defined under in this section.

Thermal Paper

Thermal Paper Quantity: 20,000 rolls of thermal receipt paper. The DNR will re-order receipt paper at the contract specified price as needed.

Thermal Receipt Paper Requirements: Each roll of thermal receipt paper shall be 2250-72-60 HP 3 1/8"x 230' direct thermal premium paper or equivalent. Thermal receipt paper must not degrade when stored and must have a shelf life of 5 years.

Kits

Kits: The Contractor will be required once a year to fulfill and mail new license year kit materials to agents and to a central distribution center. Kits must be sent out on or around February 15th to all agents around the state, to neighboring states, and possibly Canadian Provinces for the March 1 beginning of the license year.

A kit consists of 2 rolls of license stock and 1 print ribbon – the number of kits an agent receives will depend upon previous license sales. The DNR will provide an Excel spreadsheet with the list of agents and the amount of stock and ribbons to be sent to each location.

1.2.3 Quantity

The State is not obligated to purchase stock, ribbons, or receipt paper in any specific quantity.

1.2.4 Ordering

The State will issue a Purchase Order, which must be approved by the Contract Compliance Inspector, to order any Deliverable(s). Each year, Quanta is not authorized to begin performance of the contract until receipt of an annual Purchase Order.

1.2.5 Alternate Bids

The contractor offered an alternate (proprietary) solution for this contract which varied from the specifications in Section 1.2.2, Deliverable(s). The State tested the materials and found them to be acceptable and awarded the Quanta Tuff stock.

1.3 Management and Staffing

1.3.1 Project Management

Quanta will carry out this project under the direction and control of the Department of Natural Resources (DNR).

Although there will be continuous liaison with the Quanta, the DNR Project Manager will meet or request communication every other week as a minimum (from December 1 – March 1), with Quanta's Project Manager for the purpose of reviewing progress and providing necessary guidance in solving problems that may arise.

Quanta will submit brief written summaries of progress on the first of the month between September and March for the term of the contract (2013 will not require a September report), which will outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real and anticipated, which should be brought to the attention of the DNR Project Manager; and notification of any significant deviation from previously agreed upon work plans.

Within 30 Days of the Effective Date, Quanta will submit detailed project plan to the DNR Project Manager for final approval. The plan must include:

- (a) Quanta's organizational chart with names and titles of personnel assigned to the project. This must be in agreement with staffing of accepted proposal.
- (b) The project breakdown showing sub-projects, tasks, and resources required; or
- (c) A time-phased plan in the form of a graphic display, showing each event, task, and decision point in the work plan.

1.3.2 Reports

Quanta shall provide the DNR Project Manager with project progress the first of the month September thru March (2013 will not require a September report). A final report is due after delivery of stock to agents and the DNR fulfillment center. The parties shall determine the content of the project progress reports to be issued by Quanta to the State. Such reports may include:

- (i) For each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
- (ii) Explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
- (iii) Describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
- (iv) Include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
- (v) Final Report must include the list of UPS tracking numbers of shipments to license agents, the number of kits sent to each agent, the number of stock and ribbons sent to the warehouse as well as an overall assessment of what went well, what did not and take away suggestions for the following year.

1.3.3 Staff, Duties, and Responsibilities

Quanta identified the following key personnel.

Name	Title	Role/Responsibility	Location
Joe Bennett	Account Manager	Overseeing entire project, Primary contact for the DNR	Brighton, MI
Kevin Smith	Quality Assurance	Product testing, Monitoring production, Specification testing	Brighton, MI
Jennifer DeLyon	Shipping Manager	Assistance in Kitting, Shipping and Quality control	Brighton, MI
Kelly Donal	Office manager	Accounting, Billing, Order entry, Shipping assistance	Brighton, MI
Jim Trittschler	Service and support	Labeling kits for shipment, double check to ensure address matches number of kits as specified in DNR documentation. Technical support	Brighton, MI
Jim Fowler	Vice president	Quality control and problem resolution assistance, General assistance	Brighton, MI
Jeff Janowski	President	Quality control and Problem resolution assistance, General assistance	Brighton, MI

1.3.4 Meetings

The State may request a kick-off meeting with the Contractor within thirty (30) days of the effective date of the contract as well as other meetings as it deems appropriate during the contract period. The Contractor should expect that at least once per year a meeting will be held in Lansing requiring attendance in person. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

1.3.5 Place of Performance

Quanta identified the following:

Full address of place of performance	Owner/operator of facility to be used	Percent (%) of Contract value to be performed at listed location
Quanta Inc. 1145 Old US Hwy 23 Brighton, MI 48843	Jeff Janowski/Jim Fowler	55%
Saxon Inc. 811 Woodward Heights Ferndale, MI 48220	Scott Best	20%
Ricoh Electronics Inc. 2320 Red Hill Ave. Santa Ana, CA 92705	Yoji Ide	15%
Direct Paper Supply 1721 Maplelane Ave. Hazel Park, MI 48030	David Lam	10%

1.3.6 Reserved

1.3.7 Binding Commitments

Quanta identified its representative with the authority to make binding commitments on their behalf.

Joe Bennett has full authority to make binding commitments on the behalf of Quanta Inc.

1.3.8 Training

Quanta's training capabilities include ordering, shipping, billing, receiving, product provided. Quanta also offers training on correct installation of products provided in the hardware currently used, most common printer issues and safety issues if any exist. All training can be completed at the DNR's Lansing location, or Quanta's location or over the telephone, whichever the DNR desires. All training will be performed in accordance to the DNR's requests.

1.3.9 Security

Quanta may be required to make frequent deliveries to State facilities. If background checks are performed, Quanta must provide a document stating that its personnel have satisfactorily completed a background check and are suitable for State work.

For this project the product will be delivered directly to users of the RSS system and to the RSS fulfillment center via UPS or freight carriers. Deliveries to State facilities for this project will be shipped via UPS. Background checks are authorized if the State feels it is necessary, or if the state would like to issue an ID badge.

The State may issue State ID badges to delivery personnel or accept the ID badge issued to delivery personnel by their company. The State may decide to perform an additional background check under Section 2.4.9, Background Checks. If so, Quanta must provide a list of all personnel, including name and date of birth, which will be assigned to State work.

1.4 Delivery and Acceptance

Quanta will be responsible for packaging and processing fulfillment for kits as described in Section 1.2.2 above to approximately 1400 license agents by February 15th of each year with the remaining inventory sent to a centralized fulfillment center.

The DNR will provide a License Agent distribution list in an Excel spreadsheet format by December 15th of each year. Quanta will provide the DNR Project Manager with an Excel spreadsheet of shipment tracking numbers of kits sent to all agents via email within 24 hours of shipment.

The DNR will be responsible to pay shipping fees and freight costs to send the finished kits to the agents and the remaining inventory to the fulfillment center. Mailing costs will be direct billed to the State using the State's mailing services contractor.

1.4.1 Time Frames

The receipt of order date is governed in the same manner as notices sent under Section 2.3.6, Notices. It is requested that all orders be delivered as follow:

- Samples for testing must be received by January 5th
- Annual shipment of kits must be shipped by February 15
- Remaining stock, ribbons and receipt paper must be shipped to the fulfillment center no later than March 1
- Any additional orders received by the Contractor for ribbons or receipt paper will be shipped within 30 days of receipt of order.

All time frames in this section will be met by Quanta. Standard delivery will be offered as outlined in this section.

Quick ship program:

The DNR has the option to instruct Quanta to hold desired quantities from the totals ordered at our facility for quick shipments. In this case orders will be shipped no later than one business day after a release is issued by the DNR,

provided that it is issued by approved personnel. The DNR is responsible for shipping charges to RSS agents and/or RSS fulfillment center under this program as outlined.

1.4.2 Minimum Order

See price proposal, attachment A

1.4.3 Packaging

Quanta will provide packaging that most closely meets kit and bulk shipping sizes. All packaging will meet D.O.T requirements that will permit application of lowest freight rate. We will meet all aspects of this section.

1.4.4 Palletizing

Palletizing shall be in accordance with supplier's commercial practice and shall meet the requirements of Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

Shipments shall be palletized whenever possible and shall conform to the following:

- Manufacturer's standard 4-way shipping pallets are acceptable.
- Maximum height: 5'6"; including pallet.
- Maximum weight: 3500 pounds; including pallet.
- Pallets are to be securely banded or shrink-wrapped.
- The cost of palletizing must be included in the unit price.

1.4.5 Delivery Term

Unless specified otherwise below, delivery is governed by Section 2.8.2, Delivery Responsibilities.

Delivery terms are "F.O.B. Destination" for all shipments.

If Quanta fails to follow these shipping instructions, the State will pay the carrier used and deduct the difference from Quanta's invoice for the amount that was charged and the amount that would have been charged if the required carrier had been used.

1.4.6 Acceptance Process

1.4.7 Criteria

The State will use the following criteria to determine acceptance of Deliverable(s) or Services provided under this SOW:

- Contractor must receive approval on samples submitted prior to moving to production.
- Final Acceptance of the yearly business cycle will be made after the DNR receives the final report of the agent kits delivered successfully.

1.5 Proposal Pricing

1.5.1 Pricing

Quanta has provided pricing details in **Attachment A**.

1.5.2 Quick Payment Terms

Quanta has offered the following quick payment terms. The number of days does not include processing time for payment to be received by Quanta's financial institution.

Quanta is offering a quick payment discount of .005 (1/2)% off an invoice if paid within 12 Days from the State's receipt of the invoice or delivery of the Deliverable(s), whichever is later.

1.5.3 Price Term

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided on or before June of each year prior to the January 5th sample delivery, with the request for price change in order to substantiate any requested change. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Purchasing Operations also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period. Requests for price are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The Contractor remains responsible for performing according to the contract terms at the contract price for all orders received before price revisions are approved or before the contract is cancelled.

1.5.4 Tax Excluded from Price

(a) Sales Tax: The State is exempt from sales tax for direct purchases. Quanta's prices must not include sales tax. DNR-Procurement will furnish exemption certificates for sales tax 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, Quanta's prices must not include the Federal Excise Tax.

1.5.5 Invoices

Quanta's invoices must which reflects the same information that an actual invoice will contain. At a minimum, an invoice must include:

- (a) Date
- (b) PO #
- (c) Quantity
- (d) Deliverable
- (e) Unit Price
- (f) Shipping Cost (if any)
- (g) Total Price

1.6 Commodity Requirements

1.6.1 Customer Service

Any supplies and services to be furnished under a contract resulting from this Request for Proposal shall be ordered by issuance of a purchase order by the Department of Natural Resources.

If mailed, a purchase order is considered "issued" when the State deposits the order in the mail. Orders may also be issued by facsimile or by electronic commerce methods.

Quanta's order capabilities include the following:

By phone 810-227-3046

By Fax 810-227-1707

Electronically by email jbennett@quanta-inc.com

And by written order (mail): Quanta Inc 1145 Old US Hwy 23, Brighton, MI 48843

Quanta has current procedures in place for orders from the state. We will create a list of approved individuals that is updated each year in cooperation with the DNR. Each time an order is placed it is checked to make sure it was placed by an approved individual. All quantities are checked against prior orders and current purchase orders, if there is a discrepancy, the approved state individuals are contacted for confirmation.

Quanta will have Joe Bennett and Kelly Donal available by phone and email. Quanta will respond immediately to any problem concerns and Joe Bennett will make himself available in the event of any problems. Quanta and the DNR's history shows that Quanta has not only responded to, but resolved all and any past issues in a very timely manner. If a problem arises Quanta immediately gets our partners involved to provide the best people in the industry to solve any concerns quickly. After any concern is brought to our attention we will immediately work with the DNR to identify and isolate the problem. The DNR will be notified of progress and actions being taken to resolve the problem as well as time estimates for problem resolution. Quanta has internal people designated for problem resolution.

It is the preference of the State of Michigan that the Contractor have an accessible customer service department with an individual specifically assigned to the DNR - State of Michigan account. It is the preference of the State of Michigan that the Contractor has experienced sales representatives make timely personal visits to State accounts. The Contractor's customer service must respond to State agency inquiries promptly. It is the preference of the State of Michigan that the Contractor provides a statewide toll-free number for customer service calls.

All Quanta can be reached at Quanta's main phone number 810-227-3046, Fax 810-227-1707

Joe Bennett, Account Manager

Responsibilities include overseeing entire project, primary contact for the DNR, product recommendation and problem resolution Jbennett@quanta-inc.com

Kevin Smith, Quality Assurance

Responsibilities include testing product. Monitoring production runs. Specification testing. Ksmith@quanta-inc.com

Jeff Janowski

Responsibilities include final inspection of all kitted products and final check of all shipping functions as well as kitting and shipping assistance and problem resolution. Janowski@quanta-inc.com

Jim Fowler

Responsibilities include assistance in kitting, shipping, and quality control, and problem resolution. jfowler@quanta-inc.com

Kelly Donal, Office Manager

Responsibilities include accounting, billing, order entry, and shipping assistance and problem resolution. Kelly@quanta-inc.com

Jim Trittschler

Responsibilities include labeling kits for shipment and double check to make sure address matches number of kits as specified in DNR documentation and technical support functions. service@quanta-inc.com

Jennifer DeLyon, Shipping Manager

Responsibilities include shipping product to store locations and tracking shipments.

Jennifer@quanta-inc.com

1.6.2 Research and Development

Quanta must explain its ability to invest in new research and development and to stay current with ongoing demands.

Quanta is constantly evaluating new materials for this DNR project. We attend “shows” like Label Expo in which manufacturers of raw materials frequent and we are in close contact constantly with our suppliers. Quanta offered a new material in 2006 and Offered the current Quanta Tuff material in 2008 that has proven to be the best material ever for this project and offers solutions to problems that are inherent to Valeron. Valeron will tear poorly on the perforation and “delaminate” and destroy itself so that the label will have to be re printed depending on the direction the user tears on the perforation, so there is a 50% chance the label will be damaged when torn on the perforation. Quanta Tuff tears clean on the perforation and solves this problem. In 2010 we improved the Quanta Tuff solution by putting it on a clear PET waterproof liner, which makes the label more water and liquid resistant before it is applied because the liner will not soak up water like a standard paper liner. The new liner makes the print on the back of the liner more noticeable. The clear liner is also easier for the Zebra printers to sense top of form as no calibration is typically necessary with the clear liner material and greatly reduced and/or eliminated “calibration” help calls related to the license stock. We also do a wide range of extensive testing on all the products we offer for this project. We feel that it is of utmost importance that the DNR has a contractor that is doing constant research and development for this project. Research and development cost time and money. Anyone can talk about their capabilities and willingness for performing research and development, Quanta provides proof by offering and improving alternate options that have superior performance and superior price stability when compared to Valeron.

1.6.3 Quality Assurance Program

Quanta has provided the DNR with quality, problem-free ribbons for many years and have provided labels of unmatched quality for 7 years. We already have procedures in place that use a densitometer that checks for uniform color and coating every 30,000 to 40,000 labels. We also take samples off every master roll and check for color and coating uniformity. We do a print test on a GK420T using the ribbons we provide at the correct heat setting of 25 and speed setting of 4 inches per second that the DNR runs their printers at. This test is performed approximately every 250,000 labels that come off the press. We have performed these types of tests for the past 7 years that we have provided labels for the DNR to ensure the best quality and most consistent product possible.

Our kitting and shipping procedures also include quality assurance. All kitting and shipping functions have a person responsible specifically for them. Every kit and shipping label are double checked by a second individual and a final check is performed before products are released. Checks for kitting include verifying quantities and packaging. Checks for shipping include cross referencing and a checking against the DNR’s supplied customer list for every single kit.

1.6.4 Warranty for Deliverable(s) or Services

All products provided for this proposal are warranted against defects. Any defective materials will be replaced. In the past there has never been defective product released by Quanta. Our in depth quality checks insure consistent quality. Service work for this proposal includes packaging and shipping. Quanta uses only new packaging material that greatly exceeds the requirements necessary for product to arrive undamaged to its destination. Any possible service issues that involve shipping will be discussed with the DNR and will be resolved as quickly as possible. Any and all concerns in respect to warranty should be directed to Joe Bennett by phone or email immediately.

1.6.5 Special Incentives

Quanta offers a program for the return of new/unused ribbon as follows: Under this program unused ribbon must be returned within 9 months of shipment. The DNR is responsible for freight of returned product. All returned ribbon must be unopened and in it’s original bag. Quanta will credit the DNR 75% of the purchase price for all returned ribbons. (Full credit less 25% restocking fee) This offer is valid every year Quanta provides ribbons for this project with exception to the final year.

1.6.6 Energy Efficiency- Reserved

1.6.7 Environmental Requirements

The State prefers to purchase products that impact the environment less than competing products. Environmental components that may be considered include: recycled content, recyclability, and the presence of undesirable materials in the products, especially persistent, bioaccumulative, and toxic chemicals. Explain if it intends to provide such products, including any relevant third-party certification (such as Green Seal, etc.).

None of the products being proposed contain toxic chemicals. The core that the ribbon and license stock are wound on are 25 to 30% recycled material (post-consumer). This is the only portion of the finished product that uses recycled materials.

1.6.8 Recycled Content and Recyclability

(a) **Deliverable(s).** Without compromising performance or quality, the State prefers Deliverable(s) containing higher percentages of recycled materials. Quanta must indicate an estimate of the percentage of recycled materials, if any, contained in each Deliverable:

___0___ % (total estimated percentage of recovered material)

___0___ % (estimated percentage of post-consumer material)

___0___ % (estimated percentage of post-industrial waste)

(b) **Packaging.** The State prefers packaging materials that:

- (i) are made from recycled content that meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard);
- (ii) minimize or eliminate the use of polystyrene and other difficult to recycle materials;
- (iii) minimize or eliminate the use of packaging and containers or, in the alternative, minimize or eliminate the use of non-recyclable packaging and containers;
- (iv) provide for a return program where packaging can be returned to a specific location for recycling; and
- (v) contain materials that are easily recyclable in Michigan.

Explain if Quanta intends to offer packaging materials that meet one or more of these criteria.

1.6.9 Materials Identification and Tracking

(a) **Hazardous Chemical Identification.** Quanta must list any hazardous chemical, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number. Material Safety Data Sheets must be submitted in accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001 *et seq.*, as amended. This list must be updated whenever any other chemical to be delivered is hazardous.

Chemical (if none, enter 'None')	Identification Number
None	

(b) **Brominated Flame Retardants.** The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. Quanta does not use products contain BFRs.

(c) **Environmental Permits and Requirements.** Quanta does not have any of its facilities or subcontractor facilities are in violation of any environmental laws. Quanta must immediately notify DNR-Procurement of the receipt of any EPA, State, or local agency communication indicating that any of Quanta’s facilities are in violation of applicable environmental laws.

1.7 State Employee Purchases

1.7.1 State Employee Purchases- Reserved

Article 2 – Terms and Conditions

2.1 Contract Term

2.1.1 Contract Term

The Contract term begins upon signing and expires October, 2016. All outstanding Purchase Orders will expire upon the termination of the Contract for any of the reasons listed in Section 2.16, Termination by the State, unless otherwise agreed to in writing by DNR-Procurement. Absent an early termination, Purchase Orders issued, but not expired, by the end of the Contract's term will remain in effect until the next September 30.

2.1.2 Options to Renew

This Contract may be renewed for up to 3 (three) additional 1 (one) year period(s). Renewal must be by mutual written agreement of the parties, not less than 30 days before expiration of the Contract.

2.2 Payments and Taxes

2.2.1 Fixed Prices for Deliverable(s)

Prices are fixed for all Deliverable(s) and for all of the associated payment milestones and amounts.

2.2.2 Payment Deadlines

Undisputed invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 *et seq.*, within 45 days after receipt.

2.2.3 Invoicing and Payment – In General - Reserved

2.2.4 Pro-ration- Reserved

2.2.5 Final Payment and Waivers

The Contractor's acceptance of final payment by the State constitutes a waiver of all claims by the Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed. For other claims, final payment by the State will not constitute a waiver by either party of any rights as to the other party's continuing obligations, nor will it constitute a waiver of any claims under this Contract, including claims for Deliverable(s) not reasonably known to be defective or substandard.

2.2.6 Electronic Payment Requirement

As required by MCL 18.1283a, the Contractor must electronically register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer (EFT) payments.

2.2.7 Employment Taxes

The Contractor must collect and pay all applicable federal, state, and local employment taxes.

2.2.8 Sales and Use Taxes

The Contractor must register and remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. If the Contractor lacks sufficient presence in Michigan to be required to register and pay taxes, it must do so on a voluntary basis. The requirement to register and remit sales and use taxes extends to (a) all members of a "controlled group of corporations" as defined in § 1563(a) of the Internal Revenue Code, 26 USC 1563(a), and applicable regulations; and (b) all organizations under common control that make sales at retail for delivery into the State. Any United States Department of Treasury regulation that references "two or more trades or businesses under common control" includes organizations such as sole proprietorships, partnerships (as defined in §

7701(a)(2) of the Internal Revenue Code, 26 USC 7701(a)(2)), trusts, estates, corporations, or limited liability companies.

2.3 Contract Administration

2.3.1 Issuing Office

This Contract is issued by DNR-Procurement (DNR). **DNR-Procurement is the only entity authorized to modify the terms and conditions of this Contract, including the prices and specifications.** The Contract Administrator within DNR-Procurement for this Contract is:

Jana Harding-Bishop, Buyer
Procurement
Department of Natural Resources
Mason Bldg., 6th Floor
PO Box 30028
Lansing, MI 48909
HardingJ3@michigan.gov
(517) 373-1190

2.3.2 Contract Compliance Inspector- Reserved

2.3.3 Project Manager

The Project Manager, named below, will monitor and coordinates Contract activities on a day-to-day basis and oversees the project. However, management of the project implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Denise Gruben
Licensing and Reservations
Department of Natural Resources
Mason Bldg., 8th Floor
PO Box 30181
Lansing, MI 48909-7948
grubend@michigan.gov
517-335-4036

2.3.4 Contract Changes

(a) If the State requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the Contract, the Contractor must notify the State before performing the requested activities. If the Contractor fails to notify the State, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

(b) The State or the Contractor may propose changes to the Contract. If the Contractor or the State requests a change to the Deliverable(s) or if the State requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, DNR-Procurement will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the Contract (Contract Change Notice).

(c) No proposed change may be performed until DNR-Procurement issues a duly executed Contract Change Notice for the proposed change.

2.3.5 Price Changes

If allowed by Section 1.5.3, Price Term, the State and the Contractor will complete a pricing review (Review) every 365 days following the Effective Date, to allow for changes based on actual costs incurred. Requested changes may include increases or decreases in price and must be accompanied by supporting information indicating market support

of proposed modifications (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics).

(a) The State may request a Review upon 30 days written notice that specifies what Deliverable is being reviewed. At the Review, each party may present supporting information including information created by, presented, or received from third parties.

(b) Following the presentation of supporting information, both parties will have 30 days to review the supporting information and prepare any written response.

(c) In the event the Review reveals no need for modifications of any type, pricing will remain unchanged unless mutually agreed to by the parties. However, if the Review reveals that change may be recommended, both parties will negotiate in good faith for 30 days unless extended by mutual agreement of the parties.

(d) If the supporting information reveals a reduction in prices is necessary and Contractor agrees to reduce rates accordingly, then the State may elect to exercise the next one year option, if available.

(e) If the supporting information reveals a reduction in prices is necessary and the parties are unable to reach agreement, then the State may eliminate all remaining Contract renewal options.

(f) Any changes based on the Review must be implemented through the issuance of a Contract Change Notice.

2.3.6 Notices

All notices and other communications required or permitted under this Contract must be in writing and will be considered given when delivered personally, by fax (if provided) or by e-mail (if provided), or by registered mail, return receipt requested, addressed as follows (or any other address that is specified in writing by either party):

If to State:

State of Michigan
DNR-Procurement
Attention: Jana Harding-Bishop
PO Box 30028
530 West Allegan
Lansing, MI 48909
HardingJ3@michigan.gov

If to Contractor:

Quanta, Inc.
Attention: Joe Bennett
1145 S. Old US Hwy 23
Brighton, MI 48114
jbenett@quanta-inc.com

Delivery by a nationally recognized overnight express courier will be treated as personal delivery.

2.3.7 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless otherwise provided in this Contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the Contract.

2.3.8 Assignments

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under the Contract, to another party (whether by operation of law or otherwise), without the prior approval of the other party. The State may, however, assign this Contract to any other State agency, department, or division without the prior approval of the Contractor.

(b) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State and provide adequate information about the assignee at least 90 days before the proposed assignment or as otherwise provided by law or court order. The State may withhold approval from proposed assignments, subcontracts, or novation if the State determines, in its sole discretion, that the transfer of

responsibility would decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(c) If the State permits an assignment of the Contractor's right to receive payments, the Contractor is not relieved of its responsibility to perform any of its contractual duties. All payments must continue to be made to one entity.

2.3.9 Equipment

The State will not provide equipment and resources unless specifically identified in the Statement(s) of Work or other Contract exhibits.

2.3.10 Facilities - Reserved]

2.4 Contract Management

2.4.1 Contractor Personnel Qualifications

All persons assigned by the Contractor to perform work must be employees of the Contractor or its majority-owned subsidiaries, or a State-approved Subcontractor, and must be fully qualified to perform the work assigned to them. The Contractor must include this requirement in any subcontract.

2.4.2 Contractor Key Personnel

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

(b) The Contractor must dedicate Key Personnel to perform work for the duration of the Contract as provided in Section 1.3.3, Staff, Duties, and Responsibilities.

(c) Before assigning a new individual to any Key Personnel position, the Contractor must notify the State of the proposed assignment, introduce the individual to the appropriate State representatives, and provide the State with a resume and any other reasonably requested information. The State must approve or disapprove the assignment, reassignment, or replacement of any Key Personnel. The State may interview the individual before making its decision. If the State disapproves an individual, the State will provide a written explanation outlining the reasons for the rejection.

(d) The Contractor may not remove any Key Personnel from their assigned roles without the prior consent of the State. The Contractor's removal of Key Personnel without the prior consent of the State constitutes Unauthorized Removal. Unauthorized Removal does not include replacing Key Personnel for reasons beyond the Contractor's reasonable control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. Unauthorized Removal does not include replacing Key Personnel because of promotions or other job movements allowed by the Contractor's personnel policies or Collective Bargaining Agreement(s), as long as the Contractor assigns the proposed replacement to train the outgoing Key Personnel for 30 days. Any Unauthorized Removal will be considered a material breach of the Contract.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 Days before redeploying non-Key Personnel to other projects.

2.4.3 Removal or Reassignment of Personnel at the State's Request

The State may require the Contractor to remove or reassign personnel if the State has legitimate, good-faith reasons articulated in a notice to the Contractor. Replacement personnel 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.

2.4.4 Contractor Personnel Location

Subject to availability, the State may allow selected Contractor personnel to use State office space.

2.4.5 Contractor Identification

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

2.4.6 Cooperation with Third Parties

The Contractor and its Subcontractors must cooperate with the State and its agents and other contractors, including the State's quality assurance personnel. The Contractor must provide reasonable access to its personnel, systems, and facilities related to the Contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.

2.4.7 Relationship of the Parties

The relationship between the State and Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor, or any of its subcontractors, is an employee, agent or servant of the State. The 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.

2.4.8 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.

2.4.9 Background Checks

The State may investigate the Contractor's personnel before granting 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 eligibility for working within State facilities and systems. The investigations will include a Michigan State Police background check (ICHAT) and may include a Criminal Justice Information Services (CJIS) fingerprint check. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the CJIS fingerprint check.

2.4.10 Compliance With State Policies

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources, available at http://www.michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html. Contractor personnel must agree to the State's security and acceptable use policies before the State grants access to its IT equipment and resources. The Contractor must provide these policies to prospective personnel before requesting access from the State. Contractor personnel must comply with all physical security procedures in State facilities.

2.5 Subcontracting by Contractor

2.5.1 Contractor Responsible

The Contractor is responsible for the completion of all Deliverable(s). The State will consider the Contractor to be the sole point of contact with regard to all contractual matters, including payment of any charges for Deliverable(s). The Contractor must make all payments to its Subcontractors or suppliers. Except as otherwise agreed in writing, the State is not obligated to make payments for the Deliverable(s) to any party other than the Contractor.

2.5.2 State Approval of Subcontractor

(a) The Contractor may not delegate any duties under this Contract to a Subcontractor unless DNR-Procurement gives prior approval to the delegation. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the Effective Date. The State is entitled to receive copies of and review all subcontracts. The Contractor may delete or redact any proprietary information before providing it to the State.

(b) The State may require the Contractor to terminate and replace any Subcontractor the State reasonably finds unacceptable. The required replacement of a Subcontractor must be written and contain reasonable detail outlining the State's reasons. If the State exercises this right, and the Contractor cannot immediately replace the Subcontractor, the State will agree to an equitable adjustment in the schedule or other terms that may be affected by the State's required replacement. If this requirement results in a delay, the delay will not be counted against any applicable Service Level Agreement (SLA).

2.5.3 Subcontract Requirements

Except where specifically approved by the State, Contractor must include the obligations in Sections 2.24.2, Media Releases, 2.4, Contract Management, 2.11, Confidentiality, 2.12, Records and Inspections, 2.13, Warranties, 2.14, Insurance, and 2.23, Laws, in all of its agreements with Subcontractors.

2.5.4 Competitive Selection

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

2.6 Administrative Fee and Reporting

2.6.1 Administrative Fee and Reporting

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

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

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

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

2.7 Performance

2.7.1 Time of Performance

(a) The Contractor must immediately notify the State upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(b) 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 immediately notify the State and, to the extent practicable, continue to perform its obligations according to the Contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.7.2 Service Level Agreements - Reserved

2.7.3 Liquidated Damages

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result.

- If the Contractor fails to deliver sufficient stock timely for the opening of the new hunting season, Contractor and the State agree that there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.120**, the State is entitled to collect liquidated damages in the amount of \$5,000.00 and an additional \$1,000.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.
- If it is demonstrated that the production stock/ribbon combination performs differently or inconsistently from what was tested and approved in test, either in full or in part, the Contractor has 30 days to correct the problem and reissue/replace ribbons and/or stock at no cost to the State. After 30 days, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.120**, the State is entitled to collect liquidated damages in the amount of \$5,000.00 and

an additional \$1,000.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

2.7.4 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, 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 any 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, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the Deliverable(s) for more than 10 Days, and the State reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to the State, the State may: (a) procure the affected Deliverable(s) from an alternate source without liability for payment so long as the delay in performance continues; or (b) terminate any portion of the Contract so affected and equitably adjust charges payable to the Contractor to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure or to payments for Deliverable(s) not provided as a result of the Excusable Failure. The Contractor will not be relieved of a default or delay caused by acts or omissions of its Subcontractors except to the extent that a Subcontractor experiences an Excusable Failure and the 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, including disaster recovery plans.

2.8 Acceptance of Deliverable(s)

2.8.1 Quality Assurance

By tendering any Deliverable to the State, the Contractor certifies to the State that (a) it has performed reasonable quality assurance activities; (b) it has performed any reasonable testing; and (c) it has corrected all material deficiencies discovered during the quality assurance activities and testing. To the extent that testing occurs at State Locations, the State is entitled to observe and otherwise participate in the testing.

2.8.2 Delivery Responsibilities

Unless otherwise specified by the State in Section 1.4.5, Delivery Term, the following are applicable to all deliveries:

- (a) The Contractor is responsible for delivering the Deliverable(s) by the applicable delivery date to the location(s) specified in the SOW or individual Purchase Order.
- (b) The Contractor must ship the Deliverable(s) "F.O.B. Destination, within Government Premises."
- (c) The State will examine all packages at the time of delivery. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at the time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage.

2.8.3 Process for Acceptance of Deliverable(s)

The State's review period for acceptance of the Deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify the State's review period, it is by default 30 Days for a Deliverable (State Review Period). The State will notify the Contractor by the end of the State Review Period that either:

- (a) the Deliverable is accepted in the form delivered by the Contractor;

- (b) the Deliverable is accepted, but noted deficiencies must be corrected; or
- (c) the Deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the Deliverable.

If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the Deliverable(s) with an explanation that demonstrates all corrections have been made to the original Deliverable(s). 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 30 Days, to accept the corrected Deliverable.

2.8.4 Acceptance of Deliverable(s)

(a) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of the Deliverable(s). The State Review Period will begin on the first Business Day following the State's receipt of the Deliverable(s).

(b) The State may inspect the Deliverable to confirm that all components have been delivered without material deficiencies. If the State determines that the Deliverable or one of its components has material deficiencies, the State may reject the Deliverable without performing any further inspection or testing.

(c) The State will only approve a Deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, in its discretion, conditionally approve a Deliverable that contains material deficiencies if the State elects to permit the Contractor to correct those deficiencies post-approval. The Contractor remains responsible for working diligently to correct, within a reasonable time at the Contractor's expense, all deficiencies in the Deliverable that remain outstanding at the time of State approval.

(d) If, after three opportunities the Contractor is unable to correct all deficiencies, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor; (ii) keep the Contract in force and perform, 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 amount equal to 10% of the State's cost to cure the deficiency; or (iii) fully or partially terminate the Contract for default by giving notice to the Contractor. 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.

(e) The State, at any time and in its reasonable discretion, may reject the Deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable.

2.8.5 Process for Approval of Written Deliverable(s)- Reserved

2.8.6 Process for Approval of Services - Reserved

2.8.7 Final Acceptance

Unless otherwise stated in the Statement of Work, "Final Acceptance" of a Deliverable occurs when that Deliverable has been accepted by the State following the applicable State Review Period.

2.9 Ownership - Reserved

2.10 State Standards - Reserved

2.11 Confidentiality

2.11.1 Confidential Information

As used in this Section, "Confidential Information" means all information of the parties, except information that is:

- (a) disclosable under the Michigan Freedom Of Information Act (FOIA);
- (b) now available or becomes available to the public without breach of this Contract;
- (c) released in writing by the disclosing party;
- (d) obtained from a third party or parties having no obligation of confidentiality with respect to such information;
- (e) publicly disclosed pursuant to federal or state law; or

(f) independently developed by the receiving party without reference to Confidential Information of the furnishing party.

2.11.2 Protection and Destruction of Confidential Information

(a) Each party must use the same care to prevent unauthorized disclosure of Confidential Information as it uses to prevent disclosure of its own information of a similar nature, but in no event less than a reasonable degree of care. Neither the 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 interest or license 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.

(b) Each party will limit disclosure of the other party's Confidential Information to employees, agents, and Subcontractors who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where: (i) use of a Subcontractor is authorized under this Contract; (ii) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility; and (iii) 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 to the State's Confidential Information may be required to execute a separate agreement to be bound by the confidentiality requirements of this Section.

(c) Upon termination of the Contract, Contractor must promptly return the State's Confidential Information or certify to the State that Contractor has destroyed all of the State's Confidential Information.

2.11.3 Exclusions

The provisions of Section 2.11, Confidentiality, will not apply where the receiving party is required by law to disclose the other party's 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.

2.11.4 No Obligation to Disclose

Nothing contained in Section 2.11, Confidentiality, will be construed as obligating a party to disclose any particular Confidential Information to the other party.

2.11.5 Security Breach Notification

If Contractor breaches this Section, it must (i) promptly cure any deficiencies in Contractor's internal security controls; 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 access, use, or disclosure. Contractor must notify the State of any unauthorized use or disclosure of Confidential Information, whether suspected or actual, within 10 days of becoming aware of the use or disclosure or a shorter time period as is reasonable under the circumstances. The State may require Contractor to purchase credit monitoring services for any individuals affected by the breach.

2.12 Records and Inspections

2.12.1 Inspection of Work Performed

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

2.12.2 Retention of Records

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

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.12.3 Examination of Records

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

2.12.4 Audit Resolution

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

2.12.5 Errors

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

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

2.13 Warranties

2.13.1 Warranties and Representations

The Contractor represents and warrants:

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

(b) The Contract appendices, attachments, and exhibits identify the equipment, software, and services necessary for the Deliverable(s) to comply with the Contract's requirements.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by the Contractor for 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 Deliverable(s). None of the Deliverable(s) provided by Contractor to the State, nor their use by the State, will infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party.

(d) If the Contractor procures any equipment, software, or other Deliverable(s) for the State (including equipment, software, and other Deliverable(s) manufactured, re-marketed or otherwise sold by the Contractor or under the Contractor's name), then the 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(s).

(e) The Contract signatory has the authority to enter into this Contract on behalf of the 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, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to the State or otherwise create an appearance of impropriety with respect to the award or performance of this Contract. The Contractor must notify the State about the nature of any conflict or appearance of impropriety within two days of learning about it.

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

(i) Neither the 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 the 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 Contractor arrived at its proposed prices independently, without communication or agreement with any other bidder for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this Contract to any other bidder before the award of the Contract. The Contractor made no attempt to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by the Contractor to the State in connection with the award of this Contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.

(l) All written information furnished to the State by or for the Contractor in connection with the award of this Contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(m) It will immediately notify DNR-Procurement if any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract is awarded.

2.13.2 Warranty of Merchantability

The Deliverable(s) provided by the Contractor must be merchantable.

2.13.3 Warranty of Fitness for a Particular Purpose

The Deliverable(s) provided by the Contractor must be fit for the purpose(s) identified in this Contract.

2.13.4 Warranty of Title

The Contractor must convey good title to any Deliverable(s) provided to the State. All Deliverable(s) provided by the Contractor must be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Deliverable(s) provided by the Contractor must be delivered free of any rightful claim of infringement by any third person.

2.13.5 Equipment Warranty - Reserved

2.13.6 New Deliverable(s)

The Contractor must provide new Deliverable(s) where the Contractor knows or has the ability to select between new or like-new. Unless specified in Article 1, Statement of Work, equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable only where the Contractor does not have knowledge or the ability to select one or the other.

2.13.7 Prohibited Products

Shipping of salvage, distressed, outdated, or discontinued goods to any State agency will be considered a material default by the Contractor. The brand and product number offered for all items will remain consistent for the term of the Contract, unless DNR-Procurement has approved a change order under Section 2.3.4, Contract Changes.

2.13.8 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in Section 2.13, Warranties, the breach may be considered a material default.

2.14 Insurance

2.14.1 Liability Insurance

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

(a) The following apply to all insurance requirements:

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

(ii) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits of coverage specified are not intended, and may not be construed to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

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

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

(b) The Contractor must:

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

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

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

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

(v) maintain all required insurance coverage throughout the term of this Contract and any extensions.

However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.

(vi) pay all deductibles.

(vii) pay for and provide the type and amount of insurance checked below:

(A) Commercial General Liability Insurance

Minimal Limits:

\$2,000,000 General Aggregate Limit other than Products/Completed Operations;

\$2,000,000 Products/Completed Operations Aggregate Limit;

\$1,000,000 Personal & Advertising Injury Limit; and

\$1,000,000 Each Occurrence Limit.

Deductible maximum:

\$50,000 Each Occurrence

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insured's 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.

(B) Umbrella or Excess Liability Insurance

Minimal Limits:

\$10,000,000 General Aggregate

Additional Requirements:

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

(C) Motor Vehicle Insurance

Minimal Limits:

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

(D) Hired and Non-Owned Motor Vehicle Coverage

Minimal Limits:

\$1,000,000 Per Accident

Additional Requirements:

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

(E) Workers' Compensation Insurance

Minimal Limits:

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

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

Additional Requirements:

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

(F) Employers Liability Insurance

Minimal Limits:

\$100,000 Each Accident;
\$100,000 Each Employee by Disease
\$500,000 Aggregate Disease

Additional Requirements:

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

2.14.2 Subcontractor Insurance Coverage

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.14.1, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

2.14.3 Certificates of Insurance and Other Requirements

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. The Contractor must provide DNR-Procurement with all applicable certificates of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in Section 2.14.1, Liability Insurance. Each certificate must be on the standard "accord" form or equivalent and **MUST CONTAIN THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER**. Each certificate must be prepared and submitted by the insurer and must contain a provision indicating that the coverage afforded will not be cancelled, materially changed, or not renewed without 30 days prior notice, except for 10 days for nonpayment of premium, to the Procurement Services Manager of DNR-Procurement.

The notice to the Procurement Services Manager of DNR-Procurement must include the applicable Contract or Purchase Order number.

2.15 Indemnification

2.15.1 General Indemnification

The Contractor must indemnify, defend, and hold the State harmless 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, any of its subcontractors, or by anyone else for whose acts any of them may be liable.

2.15.2 Code Indemnification - Reserved

2.15.3 Employee Indemnification

In any claims against the State, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation will 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.

2.15.4 Patent/Copyright Infringement Indemnification

(a) The Contractor must indemnify and hold the State harmless 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) resulting from any action threatened or brought against the State to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.

(b) If, in the State's or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (i) procure for the State the right to continue using the equipment, software, commodity or service or, if this 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 this 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.

(c) 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 infringement claim based upon: (i) equipment, software, commodity or service developed based on written specifications of the State; (ii) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the State; or (iii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

2.15.5 Continuing Obligation

The Contractor's duty to indemnify under Section 2.15, Indemnification, 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.

2.15.6 Indemnification Procedures

These procedures apply to all indemnity obligations:

(a) After the State receives notice of an action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify the Contractor of the claim and take, or assist the Contractor in taking, any reasonable action to avoid a default judgment against the Contractor. Failure to notify the Contractor does not relieve the Contractor of its indemnification obligations except to the extent that the Contractor can prove

damages attributable to the notification failure. Within 10 days following receipt of notice from the State relating to any claim, the Contractor must notify the State whether the Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying the Contractor of a claim and before the State receives the 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, including attorney fees, incurred by the State in defending against the claim during that period.

(b) If the 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 handling 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 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 prior 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. The State may retain control of the defense and settlement of a claim by notifying the Contractor within 10 days after the State's receipt of the 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 the Contractor does not deliver a Notice of Election relating to any claim of which it is notified, the State may defend the claim in a manner it deems appropriate, at the cost and expense of the Contractor. If it is determined that the claim was one against which the Contractor was required to indemnify the State, upon request of the State, the Contractor must promptly reimburse the State for all reasonable costs and expenses.

2.15.7 Limitation of Liability

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

The Contractor's liability for damages to the State is limited to two times the value of the Contract or \$500,000 whichever is higher. The foregoing limitation of liability does not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

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

2.16 Termination by the State

2.16.1 Notice and Right to Cure

If the Contractor breaches the Contract, and the State, in its sole discretion, determines that the breach is curable, the State will provide the Contractor notice of the breach and a period of at least 30 days to cure the breach. The State does not need to provide notice or an opportunity to cure for successive or repeated breaches or if the State determines, in its sole discretion, that a 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.

2.16.2 Termination for Cause

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

(b) The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees and court costs, and any additional costs the State incurs to procure the Deliverable(s) 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 Deliverable(s).

(c) If the State partially terminates this Contract for cause, any charges payable to the Contractor will be equitably adjusted to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date. Any services or 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 and it is determined, for any reason, that the Contractor was not in breach of the Contract, the termination will be deemed to have been a termination under Section 2.16.3, Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in that Section.

2.16.3 Termination for Convenience

The State may fully or partially terminate this Contract for its convenience if the State determines that a termination is in the State's best interest. Reasons for the termination are within the sole discretion of the State and may include: (a) the State no longer needs the Deliverable(s) specified in this Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Deliverable(s) no longer practical or feasible for the State; (c) unacceptable prices for Contract changes; 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 by giving Contractor notice at least 30 days before the date of termination. If the State chooses to terminate this Contract in part, any charges payable to the Contractor must be equitably adjusted to reflect those Deliverable(s) that are terminated.

2.16.4 Termination for Non-Appropriation

(a) If this Contract extends for more than one fiscal year, continuation of this Contract is subject to the appropriation or availability of funds. If sufficient funds to enable the State to continue payment are not appropriated or otherwise made available, the State must fully or partially terminate this Contract at the end of the last period for which funds have been appropriated or otherwise made available. The State must give the Contractor notice at least 30 days before the date of termination, unless the State receives notice of the non-appropriation or unavailability less than 30 days before the end of the last period for which funds have been appropriated or otherwise made available.

(b) If funding for this Contract is reduced by law, or funds to pay the Contractor for the Deliverable(s) are not appropriated or are otherwise unavailable, the State may, upon 30 days notice to the Contractor, change the Deliverable(s) in the manner and for the periods of time the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any Deliverable(s) not provided because of the reduction.

(c) If the State fully or partially terminates this Contract for non-appropriation, the State must pay the Contractor for all work-in-progress performed through the effective date of the termination to the extent funds are available.

2.16.5 Termination for Criminal Conviction

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

2.16.6 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 all work-in-progress performed through the effective date of the termination. The Contract may be fully or partially terminated and will be effective as of the date stated in the notice.

2.16.7 Rights and Obligations upon Termination

- (a) If the State terminates this Contract for any reason, the Contractor must:
- (i) stop all work as specified in the notice of termination;
 - (ii) take any action that may be necessary, or that the State may direct, to preserve and protect Deliverable(s) or other State property in the Contractor's possession;
 - (iii) return all materials and property provided directly or indirectly to the Contractor by any entity, agent, or employee of the State;
 - (iv) transfer title in and deliver to the State, unless otherwise directed, all Deliverable(s) intended to be transferred to the State at the termination of the Contract (which will be provided to the State on an "As-Is" basis except to the extent the State compensated the Contractor for warranty services related to the materials);
 - (v) to the maximum practical extent, take any action to mitigate and limit potential damages, including terminating or limiting subcontracts and outstanding orders for materials and supplies; and
 - (vi) take all appropriate action to secure and maintain State information confidentially in accordance with Section 2.11, Confidentiality.

(b) If the State terminates this Contract under Section 2.16.3, Termination for Convenience, the State must pay the Contractor all charges due for Deliverable(s) provided before the date of termination and, if applicable, as a separate item of payment, for work-in-progress, based on a percentage of completion determined by the State. All completed or partially completed Deliverable(s) prepared by the Contractor, at the option of the State, become the State's property, and the Contractor is entitled to receive equitable compensation for those Deliverable(s). Regardless of the basis for the termination, the State is not obligated to pay or otherwise compensate the Contractor for any lost expected future profits, costs, or expenses incurred with respect to Deliverable(s) not actually completed.

(c) If the State terminates this Contract for any reason, the State may assume, at its option, any subcontracts and agreements for Deliverable(s), and may pursue completion of the Deliverable(s) by replacement contract or as the State deems expedient.

2.16.8 Reservation of Rights

In the event of any full or partial termination of this Contract, each party reserves all rights or remedies otherwise available to the party.

2.16.9 Contractor Transition Responsibilities

If this Contract terminates under Section 2.16, Termination by the State, the Contractor must make reasonable efforts to transition the performance of the work, including all applicable equipment, services, software, and leases, to the State or a third party designated by the State within a reasonable period of time that does not exceed 30 days from the date of termination. The Contractor must provide any required reports and documentation.

2.16.10 Transition Payments

If the transition responsibilities outlined in Section 2.16.9, Contractor Transition Responsibilities, arise based on a termination of this Contract, reimbursement will be governed by the provisions of Section 2.16, Termination by the State. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e., costs incurred after the expiration within the time period in Section 2.16.9 that result from transition operations) at the Contract rates. The Contractor must prepare an accurate accounting from which the State and the Contractor may reconcile all outstanding accounts.

2.17 Termination by the Contractor

2.17.1 Termination

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 notice of the breach and a time period (not less than 30 days) to cure the breach.

The Contractor may terminate this Contract if the State: (a) materially breaches its obligation to pay the Contractor undisputed amounts due; (b) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the Deliverable(s); or (c) does not cure the breach within the time period specified in a notice of breach. The Contractor must discharge its obligations under Section 2.20, Dispute Resolution, before it terminates the Contract.

2.18 Stop Work

2.18.1 Stop Work Order

The State may, by issuing a Stop Work Order, require that the Contractor fully or partially stop work for a period of up to 90 calendar days, and for any further period to which the parties agree. Upon receipt of the Stop Work Order, the Contractor must immediately take all reasonable steps to minimize incurring costs. Within the period of the Stop Work Order, the State must either: (a) terminate the Stop Work Order; or (b) terminate the work covered by the Stop Work Order as provided in Section 2.16, Termination by the State.

2.18.2 Termination of Stop Work Order

The Contractor must resume work if the State terminates 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, if: (a) the Stop Work Order results in an increase in the time required for, or the Contractor's costs properly allocated to, the performance of the Contract; and (b) the Contractor asserts its right to an equitable adjustment within 20 days after the end of the Stop Work Order by submission of a request for adjustment to the State; provided that, the State may receive and act upon the Contractor's request submitted at any time before final payment. Any adjustment will conform to the requirements of Section 2.3.4, Contract Changes.

2.18.3 Allowance of the Contractor's Costs

If the State fully or partially terminates the work covered by the Stop Work Order, for reasons other than material breach, the termination is a termination for convenience under Section 2.16, Termination by the State, and the State will pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. The State is not liable to the Contractor for lost profits because of a Stop Work Order issued under Section 2.18, Stop Work.

2.19 Reserved

2.20 Dispute Resolution

2.20.1 General

(a) The Contractor must submit any claim related to this Contract to the State under Section 2.3.6, Notices, together with all supporting documentation for the claim.

(b) The representatives of the Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information related to the claim.

(c) During the course of negotiations, each party will honor all reasonable requests made by the other for non-privileged information reasonably related to the claim.

2.20.2 Informal Dispute Resolution

(a) If, after a reasonable time following submission of a claim under Section 2.20.1, General, the parties are unable to resolve the claim, the parties must meet with the Director of Procurement Services Manager, or his or her designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings.

(b) Within 60 calendar days of the meeting with the Procurement Services Manager of DNR-Procurement, or such other time as agreed to by the parties, the Procurement Services Manager of DNR-Procurement will issue a written recommendation regarding settlement of the claim. The Contractor must notify DNR-Procurement within 21 days after the recommendation is issued whether the Contractor accepts or rejects the recommendation. Acceptance by the Contractor constitutes the final resolution of the claim addressed in the recommendation, and the Contractor may not assert that claim in any future litigation or other proceeding between the parties.

(c) The recommendation of the Procurement Services Manager of DNR-Procurement is not admissible in any future litigation or other proceeding between the parties. The conduct and statements made during the course of negotiations or dispute resolution under Section 2.20, Dispute Resolution, are subject to Michigan Rule of Evidence 408 and are not admissible in any future litigation or other proceeding between the parties.

(d) This section will not be construed to prohibit either party from instituting formal proceedings to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.20.3, Injunctive Relief.

(e) DNR-Procurement will not mediate disputes between the Contractor and any other entity, except State agencies, concerning responsibility for performance of work.

2.20.3 Injunctive Relief

A claim between the State and the Contractor is not subject to the provisions of Section 2.20.2, Informal Dispute Resolution, where a party makes a good faith determination that a breach of the Contract by the other party will result in damages so immediate, so large or severe, and so incapable of adequate redress that a temporary restraining order or other injunctive relief is the only adequate remedy.

2.20.4 Continued Performance

Each party will continue performing its obligations under the Contract while a claim is being resolved, except to the extent the claim precludes performance and without limiting either party's right to terminate the Contract as provided in Section 2.16, Termination by the State or Section 2.17, Termination by the Contractor. A claim involving payment does not preclude performance.

2.21 Disclosure Responsibilities

2.21.1 Disclosure of Litigation

(a) Within 30 days after receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

- (i) A criminal Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors;
- (ii) A parole or probation Proceeding;
- (iii) A Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors under the Sarbanes-Oxley Act; and
- (iv) A civil Proceeding to which the Contractor (or, if the Contractor is aware, any Subcontractor) is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any Subcontractor; or (B) a claim or written allegation of fraud against the Contractor (or, if the Contractor is aware, any Subcontractor) by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(b) Information provided to the State from the Contractor's publicly filed documents will satisfy the requirements of this Section.

(c) If any Proceeding that is disclosed to the State 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 the Contractor (or a Subcontractor) to continue to perform this Contract; or (ii) whether the Contractor (or a Subcontractor) is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this Contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide the State all requested reasonable assurances that the Contractor and its Subcontractors will be able to continue to perform this Contract.

2.21.2 Other Disclosures

The Contractor must notify DNR-Procurement within 30 days of:

- (a) becoming aware that a change in the Contractor's ownership or officers has occurred or is certain to occur; or
- (b) any changes to company affiliations.

2.21.3 Call Center Disclosure- Reserved

2.22 Extended Purchasing

2.22.1 MiDEAL Requirements

- (a) The Contractor must ensure that all purchasers are MiDEAL Members before extending the Contract pricing.
- (b) The Contractor must submit quarterly reports of MiDEAL purchasing activities to DNR-Procurement.

(c) To the extent that MiDEAL Members purchase Deliverable(s) under this Contract, the quantities of Deliverable(s) purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

(d) The Contractor must submit invoices to and receive payment from MiDEAL Members on a direct and individual basis.

2.22.2 State Administrative Fee

The Contractor must remit an administrative fee on all sales transacted under this Contract to MiDEAL members, and other states (including governmental subdivisions and authorized entities) and remit the fee within 30 days after the end of each quarter. The administrative fee equals 1 percent of the total quarterly sales reported.

The Contractor must pay the administrative fee by check payable to the State of Michigan. The Contractor must identify the check as an "Administrative Fee" and include the following information with the payment: the applicable Contract Number, the total quarterly sales by volume and dollar amount, and the quarter covered.

The Contractor must send the check to the following address:

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

2.22.3 State Employee Purchase Requirements- Reserved

2.23 Laws

2.23.1 Governing Law

This Contract is 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 another jurisdiction to the extent not inconsistent with or preempted by federal law.

2.23.2 Compliance with Laws

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the Deliverable(s).

If any ink that is applied to the paper during the course of a printing process, then the work must be completed in Michigan by a union printer or a printer that is paying prevailing wages per Public Act 153 of 1937.

2.23.3 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or *forum non conveniens*. The Contractor must appoint agents in the State of Michigan to receive service of process.

2.23.4 Nondiscrimination

In the performance of the Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. The Contractor further agrees that every subcontract entered into for the performance of this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliott-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.

2.23.5 E-Verify- Reserved

2.23.6 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 MCL 423.322. 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 MCL 423.324, the State may void any Contract if, after award of the Contract, the name of the Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of the Contractor appears in the register.

2.23.7 Environmental Provision

For the purposes of this section, "Hazardous Materials" include 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:

(a) The Contractor must use, handle, store, dispose of, process, transport, and transfer any Hazardous Material according to all federal, State, and local laws. The State must immediately advise the Contractor of the presence of any known Hazardous Material at the work site. If the Contractor encounters material reasonably believed to be Hazardous Material that may present a substantial danger, the Contractor must: (i) immediately stop all affected work; (ii) notify the State in accordance with Section 2.3.6, Notices; (iii) notify any entities required by law; and (iv) take appropriate health and safety precautions.

(b) The State may issue a Stop Work Order if the material is a Hazardous Material that may present a substantial danger and the Hazardous Material was not brought to the site by the Contractor, or does not wholly or partially result 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 may remove the Hazardous Material, render it harmless, or terminate the affected work for the State's convenience.

(c) If the Hazardous Material was brought to the site by the Contractor, or wholly or partially results 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.

2.23.8 Freedom of Information

This Contract and all information submitted to the State by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, *et seq.*

2.23.9 Workplace Safety and Discriminatory Harassment - Reserved

2.23.10 Prevailing Wage - Reserved

2.23.11 Abusive Labor Practices

The Contractor may not furnish any Deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

2.24 General Provisions

2.24.1 Bankruptcy and Insolvency

The State may, without prejudice to any other right or remedy, fully or partially terminate this Contract and, at its option, take possession of the work-in-progress and finish the work-in-progress by whatever method the State deems appropriate if:

- (a) the Contractor files for bankruptcy protection;
- (b) an involuntary petition is filed against the Contractor and not dismissed within 30 days;
- (c) the Contractor becomes insolvent or 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 provide the Deliverable(s) under this Contract.

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

2.24.2 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and this Contract or the project to which it relates will not be made without prior approval by the State, and only in accordance with the instructions from the State.

2.24.3 Contract Distribution

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

2.24.4 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 Contract.

2.24.5 Website Incorporation

The State is not bound by any content on the Contractor's website unless incorporated directly into this Contract.

2.24.6 Future Bidding Preclusion- Reserved

2.24.7 Antitrust Assignment

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

2.24.8 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as mandated by federal disaster response requirements, Contractor personnel dedicated to providing Deliverable(s) under this Contract will provide the State with priority.

2.24.9 Legal Effect

The State is not liable for costs incurred by the Contractor or for payment(s) under this Contract until the Contractor is authorized to perform under Section 1.2.4, Ordering.

2.24.10 Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter. All attachments referenced in this Contract are incorporated in their entirety and form part of this Contract.

2.24.11 Order of Precedence

Any inconsistency in the terms associated with this Contract will be resolved by giving precedence to the terms in the following descending order:

- (a) Mandatory sections (2.1.1, Contract Term, 2.24.9, Legal Effect, 2.2.2, Payment Deadlines, 2.14, Insurance, 2.15, Indemnification, 2.16, Termination, 2.23, Governing Law, 2.15.7, Limitation of Liability);

- (b) The most recent Statement of Work related to this Contract;
- (c) All sections from Article 2 - Terms and Conditions, not listed in subsection (a);
- (d) Any attachment or exhibit to the Contract documents;
- (e) Any Purchase Order, Direct Voucher, or Procurement Card Order issued under the Contract; and
- (f) Bidder Responses contained in any of the RFP documents.

2.24.12 Headings

The captions and section headings used in this Contract are for convenience only and may not be used to interpret the scope and intent of this Contract.

2.24.13 Form, Function and Utility

If this Contract is for statewide use, but the Deliverable(s) does not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the Deliverable(s) from another source.

2.24.14 Reformation and Severability

Each provision of the Contract is severable from all other provisions of the Contract. If any provision of this Contract is held unenforceable, then the Contract will be modified to reflect the parties' original intent. All remaining provisions of the Contract remain in full force and effect.

2.24.15 Approval

Unless otherwise provided in this Contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

2.24.16 No Waiver of Default

Failure by a party to insist upon strict adherence to any term of the Contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.24.17 Survival

The provisions of this Contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

2.24.18 PCI Data Security Standard - Reserved

Attachment A, Price Proposal

Item # 1

License Stock	Cost per thousand	Cost per year	3 year contract cost
6,500,000 per year	\$41.69	\$270,985.00	\$812,955.00

Item # 2

Ribbons	Cost per ribbon	Cost per year	3 year contract cost
10,350 per year	\$4.04	\$41,814.00	\$125,442.00

Item # 3

Thermal Receipt Paper	Cost per box	Cost per year	3 year contract cost
400 boxes per year (50 rolls per box)	\$53.15	\$21,260.00	\$63,780.00

	Cost per year	3 year contract cost
Total Contract cost	\$334,059.00	\$1,002,177.00

Notes

Price above includes cost to kit, package, palletize, prepare, and arrange for shipping or pickup of the product (including labor and materials).

Ribbon price includes new silver trailer necessary to trip the ribbon end sensor in the Zebra GK-series printers.

The DNR will be responsible for all shipping costs to license agents as well as the warehouse.

Minimum Order Information:

For Quanta Tuff license stock minimum order is 190,000 +/- 10% overrun/underrun at \$56.52 per thousand

For ribbons minimum order is 1000 at \$6.00 each

For receipt paper minimum order is one box at \$70.00

Attachment B, Front of License Stock

