



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

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

CONTRACT CHANGE NOTICE

Change Notice Number 1

to

Contract Number 071B7700024

CONTRACTOR	Legal Files Software, Inc.
	2730 S. Mac Arthur Blvd.
	Springfield, MI 62704
	Gordon Hack
	800-500-0537 X.247
	gordon.hack@legalfiles.com
	*****7912

STATE	Program Manager	Michael Weiszbrod	AG
		517-373-9684	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Kim Harris	DTMB
		(517) 284-7016	
		harrisk16@michigan.gov	

CONTRACT SUMMARY

MAINTENANCE AND SUPPORT - CASE MANAGEMENT SYSTEM - AG

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2016	September 30, 2018	4 - 1 Year	September 30, 2018
PAYMENT TERMS		DELIVERY TIMEFRAME	
		NA	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

NA

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	NA	<input type="checkbox"/>	NA	September 30, 2018
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$372,040.00	\$15,000.00	\$387,040.00		

DESCRIPTION

Effective January 26, 2017, the parties agree to additional services as referenced in the attached statement of work. These additional services will set a file type and file size limit on documents the public can upload when submitting a Charitable Trust web form online. All other terms, conditions, pricing and specifications remain the same, per contractor, agency and DTMB Procurement agreement.

Change Notice No. 1 to Contract No. 071B7700024

Statement of Work Regarding Attachment Solution for Charitable Trust Project

This Change Notice No. 1 (this "Change Notice") to Contract No. 071B7700024 (the "Contract") is entered into January 26, 2017 (the "Effective Date"), by and between the State of Michigan, Department of Technology, Management and Budget Procurement on behalf of the Michigan Department of Attorney General (collectively, the "State") and Legal Files Software, Inc., an Illinois corporation ("Contractor").

This Change Notice is to add custom programming work in support of the Charitable Trust Section's web form automation project.

Background

Under the predecessor contract between the State and Contractor, Contract No. 071B1300063 (the "Predecessor Contract"), the parties entered into Change Notice 3, effective September 23, 2015, which provided for the web automation of four Charitable Trust Section forms for \$163,100 (the "CT Project"). The CT Project is pending.

During CT Project testing, the need for additional functionality was identified, to wit, a means to limit the size of attachments and acceptable file types that may be uploaded by the public via the four new web forms (the "Attachment Solution") (deemed an "Enhancement" under the Contract). The new work will allow file-size and file-type restrictions to be configurable and modifiable post-implementation by the business owner. The Attachment Solution will prevent misuse of resources and increase security.

Agreement

The parties agree as follows:

- 1. Definitions.** All capitalized terms not defined in this Change Notice have the meanings given to them in the Contract.

2. Contact Information.

Contractor's Project Manager	State's Project Manager and Business Owner
Gordon D. Hack gordon.hack@legalfiles.com 1.800.500.0537, ext. 247	Denys De Castilhos DeCastilhosD@michigan.gov 517.373.1162

- 3. Business Requirements.** In support of the CT Project established under Change Notice No. 3 of the Predecessor Contract, the Contractor will custom code controls to limit the file size and acceptable file types of attachments that may be uploaded by the public (the "Attachment Solution") (deemed an "Enhancement" under the Contract). The user will receive a general error message that the attached file size has been exceeded, or that the attached file type is not allowed, to try again with an appropriate file size or file type, and to contact the AG's office for further assistance. (The exact language will be tweaked as appropriate.) The Attachment Solution must prevent misuse of resources and increase the State's security.
- 4. Technical Specifications.** The Attachment Solution must allow file-size and file-type restrictions to be configurable and modifiable post-implementation by the State business owner with the assistance of Legal Files Support, which must be provided with delivery of this Enhancement. The file-size restriction will be limited to 5 MB per attachment initially. The restriction of allowable file types will be maintained by means of a list of allowable file types (.pdf, .doc, .xlt, etc.) and will exclude all other file types not on the list. The State business owner must be able to add new file extensions to the allowable file types list.
- 5. Description of Documentation.** Contractor will provide the State the software package (files and folders) and configuration instructions, including configuration file name and valid parameters or variables format. Contractor will also provide the State use-case documentation detailing the configuration process to adjust the file-size and file-type restrictions.
- 6. Implementation Plan.** The new work will be rolled into the development cycle of the CT Project. The deadline for the Attachment Solution is **April 7, 2017**. Please see Attachment A for a revised CT Project schedule.
- 7. State Resources.** The State will conduct Acceptance Tests as provided in Section 8 of the Contract as necessary.
- 8. Fees.** Subject to the terms and conditions of this Change Notice and the Contract, including Section 8, Section 10, and Section 11, after Acceptance,

the State shall pay Contractor a fixed amount of FIFTEEN THOUSAND DOLLARS (\$15,000) (the "Fees") for the Attachment Solution.

- 9. Responsibility for Costs.** Contractor is responsible for all costs and expenses incurred in or incidental to the implementation of the Attachment Solution, including all costs of any materials supplied by Contractor, all fees, fines, licenses, bonds, or taxes required of or imposed against Contractor, and all other of Contractor's costs of doing business.
- 10. Payment Does Not Imply Acceptance.** The making of any payment or payments by the State, or the receipt thereof by Contractor, will in no way affect the responsibility of Contractor to implement the Attachment Solution in accordance with this Change Notice, and will not imply the State's Acceptance of the Attachment Solution or the waiver of any requirements of this Change Notice.
- 11. Acceptance Testing; Acceptance.** The Attachment Solution must be tested in accordance with the terms of Section 8 of the Contract to determine whether it is fully operable, meets all applicable specifications and will function in accordance with the Business Requirements when properly implemented and used for its intended purpose in the Operating Environment ("Acceptance Tests").
- 12. Entirety.** All terms, conditions, and specifications of the Contract not specifically modified in this Change Notice remain the same and in force and effect. The Contract, as modified by this Change Notice, represents the entire agreement and understanding between the parties and supersedes all prior and contemporaneous proposals or other agreements, oral or written, and all other communications between the parties, relating to the subject matter of the Contract. Where conflicts arise between this Change Notice and the Contract, this Change Notice shall govern.
- 13. Execution.** This Change Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement and will become effective and binding upon the parties as of the Effective Date at such time as all the signatories hereto have signed a counterpart of this Change Notice. A signed copy of this Change Notice delivered by email or other means of electronic transmission (to which a signed PDF copy is attached) has the same legal effect as delivery of an original signed copy of this Change Notice.



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

Department of Technology, Management, and Budget
525 W. Allegan, Lansing MI 48913
P.O. Box 30026, Lansing, MI 48909

NOTICE OF CONTRACT

CONTRACT NO. 071B7700024
between
THE STATE OF MICHIGAN
and

CONTRACTOR	Legal Files Software, Inc.
	2730 S. Mac Arthur Blvd.
	Springfield, MI 62704
	Gordon Hack
	800-500-0537 x-247
	Gordon.Hack@LegalFiles.com
	*****7912

STATE	Program Manager	Tracie Mansberger	AG
		517-373-9684	
	mansbergert@michigan.gov		
	Contract Administrator	Malu Natarajan	DTMB
(517) 284-7030			
NatarajanM@michigan.gov			

CONTRACT SUMMARY			
DESCRIPTION: Maintenance and Support - Case Management System - AG			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2016	September 30, 2018	4 -1 Year	September 30, 2018
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
The terms and conditions of this Contract are those which are standard for the State of Michigan for this type of Contract Agreement. In the event of any conflicts between the specifications, 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			\$372,040.00

FOR THE CONTRACTOR:

Legal Files Software, Inc.

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

William Pemble, IT Division Director

Name & Title

DTMB Procurement

Agency

Date



STATE OF MICHIGAN

Software Contract

This Software Contract (this “**Contract**”) is agreed to between the Michigan Department of Technology, Management and Budget on behalf of the Michigan Attorney General (collectively, the “**State**”) and Legal Files Software, Inc., an Illinois corporation (“**Contractor**”). This Contract is effective on October 1, 2016 (“**Effective Date**”), and unless earlier terminated, will expire on September 30, 2018 (the “**Term**”).

This Contract may be renewed for up to four additional one-year periods. Renewal must be by written notice from the State and will automatically extend the Term of this Contract.

1. Definitions. For the purposes of this Contract, the following terms have the following meanings:

“**Acceptance**” has the meaning set forth in **Section 8.5**.

“**Acceptance Tests**” means such tests as may be conducted in accordance with **Section 8** and the Statement of Work to determine whether the Software meets the requirements of this Contract and the Documentation.

“**Allegedly Infringing Materials**” has the meaning set forth in **Section 18.3(b)(ii)**.

“**Authorized Users**” means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.

“**Business Owner**” is the individual appointed by the agency buyer to (a) act as the agency’s representative in all matters relating to the Contract, and (b) co-sign off on notice of Acceptance for Enhancements to the Software.

“Business Requirements Specification” means the initial specification setting forth the State’s business requirements regarding the features and functionality of an Enhancement, as set forth in a Statement of Work.

“Change” has the meaning set forth in **Section 4**.

“Change Notice” has the meaning set forth in **Section 4(b)**.

“Change Proposal” has the meaning set forth in **Section 4(a)**.

“Change Request” has the meaning set forth in **Section 4**.

“Confidential Information” has the meaning set forth in **Section 13.1**.

“Contract” has the meaning set forth in the preamble.

“Contract Administrator” is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract.

“Contractor” has the meaning set forth in the preamble.

“Contractor Personnel” means all employees of Contractor or any Permitted Subcontractors involved in the performance of Services hereunder.

“Desktop Software” means the Legal Files version 8.0, build #810 v10 software application, including any Maintenance Releases or New Versions made available under this Contract.

“Dispute Resolution Procedure” has the meaning set forth in **Section 22.1**.

“Documentation” means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software. Contractor should reference the State’s SUITE methodology with respect to provision of any Documentation, available at <http://www.michigan.gov/suite/>.

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

“Effective Date” has the meaning set forth in the preamble.

“Enhancement” means a modification or addition that, when made or added to the Software, materially changes its utility, efficiency, functional capability, or application, and is specifically requested by the State through the Change Control Process outlined in **Section 4**.

“Fees” means collectively, the fees set forth in **Section 10.1**.

“Financial Audit Period” has the meaning set forth in **Section 20.1**.

“Force Majeure” has the meaning set forth in **Section 23.1(a)**.

“Harmful Code” means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.

“Implementation Plan” means the schedule included in a Statement of Work for Enhancements setting forth the sequence of events for the performance of Services under that Statement of Work, including the Milestones and Milestone Dates.

“Integration Testing” has the meaning set forth in **Section 8.1(c)**.

“Intellectual Property Rights” means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

“Key Personnel” means Contractor's single point of contact for this Contract, which will act as Contractor's Project Manager.

“Law” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

“License Fee” has the meaning set forth in **Section 10.1**.

“Loss or Losses” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“Maintenance and Support Schedule” means the schedule attached as **Schedule A** to this Contract, setting forth the service level agreement for Support Services and the parties' additional rights and obligations with respect thereto.

“Maintenance Release” means any new version, update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

“Milestone” means an event or task described in an Implementation Plan under a Statement of Work that must be completed by the corresponding Milestone Date.

“Milestone Date” means the date by which a particular Milestone must be completed as set forth in the Implementation Plan under a Statement of Work.

“Nonconformity” or **“Nonconformities”** means any failure or failures of the Software, once modified by an Enhancement, to conform to the requirements of this Contract, including any applicable Documentation.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.

“Permitted Subcontractor” has the meaning set forth in **Section 6.4**.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

“Pricing” means any and all fees, rates and prices payable under this Contract, including pursuant to any Schedule hereto.

“Pricing Schedule” means the schedule attached as **Schedule B** setting forth the License Fees, Support Service Fees, and training fees, any other fees, rates and prices payable under this Contract, except for the fixed fee amount for Enhancements (which will be covered under an individual Statements of work).

“Project Manager” is the individual appointed by each party to (a) monitor and coordinate the day-to-day activities of this Contract, and (b) for the State, to co-sign off on its notice of Acceptance for any Enhancements to the Software. Each party’s Project Manager will be identified in the Statement of Work.

“Representatives” means a party’s employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

“Services” means any of the services Contractor is required to or otherwise does provide under this Contract, a Statement of Work, or the Maintenance and Support Schedule as more

fully described in the body of this Contract, the individual Statement of Work, or the Maintenance and Support Schedule.

“**Site**” means the physical location designated by the State in, or in accordance with, this Contract or the Statement of Work for delivery and installation of the Software.

“**Software**” means version 9.2 of the Legal Files Web application (with Reports Solution under Contract No. 071B1300063) and the Desktop Software, and any Maintenance Releases or Enhancements for each, provided to the State pursuant to this Contract, and all copies of the foregoing permitted hereunder.

“**Specifications**” means, for an Enhancement, the specifications collectively set forth in the Business Requirements Specification, Technical Specification, Documentation, or elsewhere in the applicable Statement of Work.

“**State**” has the meaning set forth in the preamble.

“**State Materials**” means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

“**State Resources**” has the meaning set forth in **Section 7.1(a)**.

“**Statement of Work**” means any statement of work entered into by the parties and attached as a Change Notice to this Contract.

“**Stop Work Order**” has the meaning set forth in **Section 16**.

“**Support Services**” means the software maintenance and support services Contractor is required to or otherwise does provide to the State under the Maintenance and Support Schedule.

“**Support Services Fees**” has the meaning set forth in **Section 10.1**.

“**Technical Specification**” means, with respect to any Enhancement, the document setting forth the technical specifications for such Enhancement and included in a Statement of Work.

“**Term**” has the meaning set forth in the preamble.

“**Testing Period**” has the meaning set forth in **Section 8.1(b)**.

“**Third Party**” means any Person other than the State or Contractor.

“**Transition Period**” has the meaning set forth in **Section 15.3**

“**Transition Responsibilities**” has the meaning set forth in **Section 15.3**.

“User Data” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.

2. Maintenance and Support

2.1 Support Services. Contractor shall provide the State with the Support Services described in the Maintenance and Support Schedule. Such Support Services shall be provided for so long as the State elects to receive Support Services for the Software, in consideration of the State's payment of Support Services Fees in accordance with **Section 10**.

2.2 Maintenance Releases. Provided that the State is current on its Support Services Fees, during the Term, Contractor shall provide the State, at no additional charge, with all Maintenance Releases, each of which will constitute Software and be subject to the terms and conditions of this Contract.

2.3 Installation. The State has no obligation to install or use any Maintenance Release. If the State wishes to install any Maintenance Release, the State shall have the right to have such Maintenance Release installed, in the State's discretion, by Contractor or other authorized party. Contractor shall provide the State, at no additional charge, adequate Documentation for installation of the Maintenance Release, which has been developed and tested by Contractor. The State's decision not to install or implement a Maintenance Release of the Software will not affect its right to receive Support Services throughout the Term of this Contract, but Contractor specifies and the State acknowledges that bug fixes, enhancements, and any other Software changes will only be delivered via a Maintenance Release. If the State does not install a Maintenance Release, it will not receive bug fixes and enhancements.

3. Enhancements.

3.1 Procedure. The State may request Contractor to develop and implement Enhancements through the Change Control Process set forth in **Section 4** below. Contractor shall provide any Enhancements pursuant to a Statement of Work, signed by each party's Contract Administrator. The executed Statement of Work will be attached to the Contract as a Change Notice through DTMB Procurement. The term of each Statement of Work shall commence on the parties' full execution of the Statement of Work and terminate when the parties have fully performed their obligations. Contractor acknowledges that time is of the essence with respect to Contractor's obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statement of Work (including the Implementation Plan and all Milestone Dates) is strictly required. All Services

provided under a Statement of Work will be performed on a firm, fixed price basis. The terms and conditions of this Contract will apply at all times to any Statement of Work entered into by the parties, and the State shall have the right to terminate any Statement of Work as set forth in **Section 15**.

3.2 Statement of Work Requirements. Each Statement of Work will include the following:

- (a) names and contact information for Contractor's Project Manager;
- (b) names and contact information for the State's Project Manager and Business Owner;
- (c) a detailed description of the Enhancement that is to be provided under the Statement of Work, including the:
 - (i) Business Requirements Specification;
 - (ii) Technical Specification; and
 - (iii) a description of the Documentation to be provided;
- (d) an Implementation Plan, including all Milestones, the corresponding Milestone Dates and the parties' respective responsibilities under the Implementation Plan;
- (e) the due dates for payment of Fees and any invoicing requirements, including any Milestones on which any such Fees are conditioned, and such other information as the parties deem necessary;
- (f) a detailed description of all State Resources required to complete the Implementation Plan.

4. Change Control Process. The State may at any time request in writing (each, a "**Change Request**") changes to the Services or Software (each, a "**Change**"). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section 4**.

- (a) As soon as reasonably practicable, and in any case within thirty (30) Business Days following receipt of a Change Request, Contractor will provide the State with a written proposal for implementing the requested Change ("**Change Proposal**"), setting forth:
 - (i) a written description of the proposed Changes to any Services or Software;
 - (ii) the schedule for commencing and completing any additional or modified Services or Software;

- (iii) any additional State Resources Contractor deems necessary to carry out such Changes; and
- (iv) any increase or decrease in Fees resulting from the proposed Changes.

(b) Within thirty (30) Business Days following the State's receipt of a Change Proposal, the State will by written notice to Contractor, approve, reject, or propose modifications to such Change Proposal. If the State proposes modifications, Contractor must modify and re-deliver the Change Proposal reflecting such modifications, or notify the State of any disagreement, in which event the parties will negotiate in good faith to resolve their disagreement. Upon the State's approval of the Change Proposal or the parties' agreement on all proposed modifications, as the case may be, the parties will execute a written agreement to the Change Proposal ("**Change Notice**"), which Change Notice will be signed by the State's Contract Administrator and will constitute an amendment to the Contract; and

(c) If the parties fail to enter into a Change Notice within fifteen (15) Business Days following the State's response to a Change Proposal, the State may, in its discretion:

- (i) require Contractor to perform the Services under the Contract without the Change;
- (ii) require Contractor to continue to negotiate a Change Notice;
- (iii) initiate a Dispute Resolution Procedure; or
- (iv) notwithstanding any provision to the contrary in the Statement of Work, terminate this Contract under **Section 15**.

(d) No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Contract pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Each party is responsible for its own costs and expenses of preparing, evaluating, negotiating, and otherwise processing any Change Request, Change Proposal, and Change Notice.

(e) The performance of any functions, activities, tasks, obligations, roles and responsibilities comprising the Services or Software as described in this Contract are considered part of the Services and, thus, will not be considered a Change. This includes the delivery of all Enhancements in accordance with their respective Specifications, and the diagnosis and correction of Non-Conformities discovered in Enhancements prior to their Acceptance by the State or, subsequent to their Acceptance by the State, as necessary for Contractor to fulfill its associated Maintenance and Support Services under this Contract.

(f) Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

5. Software License.

5.1 Existing Licenses. Contractor acknowledges that the State is currently licensed for 590 licenses of the Software (and one associated server license), which were granted as perpetual licenses under Change Notice 2 to Contract No. 071B1300063, by and between the parties.

5.2 Additional Licenses. The State may wish to purchase additional licenses for the Software under this Contract. Fees for such additional licenses will be set forth on the Pricing Schedule.

5.3 License Grant for Additional Licenses. Any new licenses purchased by the State under this Contract will be subject to the following license grant. Contractor hereby grants to the State the right and license to use the Software and Documentation in accordance with the terms and conditions of this Contract. The rights and licenses hereby granted are non-exclusive, royalty-free, perpetual, irrevocable and will be fully paid up upon the State's payment of the License Fee. The State has the right and license to do each of the following:

(a) allow Authorized Users to access and use the Software, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for processing State data;

(b) generate, print, copy, upload, download, store and otherwise process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Software;

(c) prepare, reproduce, print, download and use a reasonable number of copies of the Documentation as may be necessary or useful for any use of the Software under this Contract; and

(d) access and use the Software and Documentation for purposes of:

(i) operation with other software or systems;

(ii) software, hardware or system configuration or testing;

(iii) maintenance, support and repair;

(iv) training;

(v) disaster recovery; and

(vi) backup and archiving.

5.4 License Restrictions. The State shall not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Software available to any third party, except as expressly permitted by this Contract; or (b) use or authorize the use of the Software or Documentation in any manner or for any purpose that is unlawful under applicable law.

6. Performance of Services. Contractor will provide all Services in a timely, professional and workmanlike manner and in accordance with the terms, conditions, and Specifications set forth in this Contract and an applicable Statement of Work.

6.1 State Standards.

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

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

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

6.2 Contractor Personnel.

(a) Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

(b) Prior to any Contractor Personnel performing any Services, Contractor will:

- (i) ensure that such Contractor Personnel have the legal right to work in the United States;
- (ii) upon request, require such Contractor Personnel to execute written agreements, in form and substance acceptable to the State, that bind such Contractor Personnel to confidentiality provisions that are at least as protective of the State's information (including all Confidential Information) as those contained in this Contract; and

- (iii) allow the State, in its sole discretion, to perform background checks on Contractor Personnel. The State is responsible for all costs associated with the requested background checks.

(c) Contractor and all Contractor Personnel will comply with all rules, regulations, and policies of the State that are communicated to Contractor in writing, including security procedures concerning systems and data and remote access, building security procedures, including the restriction of access by the State to certain areas of its premises or systems, and general health and safety practices and procedures.

(d) The State reserves the right to require the removal of any Contractor Personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and Contractor cannot immediately replace the removed personnel, the State agrees to negotiate an equitable adjustment in schedule or other terms that may be affected by the State's required removal.

6.3 Contractor's Project Manager. Throughout the Term of this Contract, Contractor must maintain a Contractor employee acceptable to the State to serve as Contractor's Project Manager, who will be considered Key Personnel of Contractor.

- (a) Contractor's Project Manager must:
 - (i) have the requisite authority, and necessary skill, experience, and qualifications, to perform in such capacity;
 - (ii) be responsible for overall management and supervision of Contractor's performance under this Contract; and
 - (iii) be the State's primary point of contact for communications with respect to this Contract, including with respect to giving and receiving all day-to-day approvals and consents.

6.4 Subcontractors. Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any Third Party to perform Services. The State's approval of any such Third Party (each approved Third Party, a "**Permitted Subcontractor**") does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will:

- (a) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees;

(b) name the State a third party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services;

(c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and

(d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.

7. State Obligations.

7.1 State Resources and Access. The State is responsible for:

(a) providing the State Materials and such other resources as may be specified in a Statement of Work (collectively, "**State Resources**"); and

(b) providing Contractor Personnel with such access to the Site(s) and Operating Environment as is necessary for Contractor to perform its obligations on a timely basis as set forth in an applicable Statement of Work.

8. Acceptance Testing for Enhancements

8.1 Acceptance Testing.

(a) Unless otherwise specified in a Statement of Work, upon development and implementation of an Enhancement, Acceptance Tests will be conducted as set forth in this **Section 8** to ensure the Enhancement conforms to the requirements of this Contract, including the applicable Specifications and Documentation.

(b) All Acceptance Tests will take place at the designated Site(s) in the Operating Environment described in the Statement of Work, commence on the Business Day following installation of the Enhancement and be conducted diligently for up to thirty (30) Business Days, or such other period as may be set forth in the Statement of Work (the "**Testing Period**"). Acceptance Tests will be conducted by the party responsible as set forth in the Statement of Work or, if the Statement of Work does not specify, the State, provided that:

- (i) for Acceptance Tests conducted by the State, if requested by the State, Contractor will make suitable Contractor Personnel available to observe or participate in such Acceptance Tests; and
- (ii) for Acceptance Tests conducted by Contractor, the State has the right to observe or participate in all or any part of such Acceptance Tests.

Contractor is solely responsible for all costs and expenses related to Contractor's performance of, participation in, and observation of Acceptance Testing.

(c) Upon delivery and installation of any Enhancement to the Software under the Statement of Work, additional Acceptance Tests will be performed on the modified Software as a whole to ensure full operability, integration, and compatibility among all elements of the Software ("**Integration Testing**"). Integration Testing is subject to all procedural and other terms and conditions set forth in **Section 8.1**, **Section 8.3**, and **Section 8.4**.

(d) The State may suspend Acceptance Tests and the corresponding Testing Period by written notice to Contractor if the State discovers a material Non-Conformity in the tested Software or part or feature of the Software. In such event, Contractor will immediately, and in any case within ten (10) Business Days, correct such Non-Conformity, whereupon the Acceptance Tests and Testing Period will resume for the balance of the Testing Period.

8.2 Notices of Completion, Non-Conformities, and Acceptance. Within fifteen (15) Business Days following the completion of any Acceptance Tests, including any Integration Testing, the party responsible for conducting the tests will prepare and provide to the other party written notice of the completion of the tests. Such notice must include a report describing in reasonable detail the tests conducted and the results of such tests, including any uncorrected Non-Conformity in the tested Software.

(a) If such notice is provided by either party and identifies any Non-Conformities, the parties' rights, remedies, and obligations will be as set forth in **Section 8.3** and **Section 8.4**.

(b) If such notice is provided by the State, is signed by the State's Business Owner and Project Manager, and identifies no Non-Conformities, such notice constitutes the State's Acceptance of such Software.

(c) If such notice is provided by Contractor and identifies no Non-Conformities, the State will have thirty (30) Business Days to use the Software in the Operating Environment and determine, in the exercise of its sole discretion, whether it is satisfied that the Software contains no Non-Conformities, on the completion of which the State will, as appropriate:

- (i) notify Contractor in writing of Non-Conformities the State has observed in the modified Software and of the State's non-acceptance thereof, whereupon the parties' rights, remedies and obligations will be as set forth in **Section 8.3** and **Section 8.4**; or
- (ii) provide Contractor with a written notice of its Acceptance of the modified Software, which must be signed by the State's Business Owner and Project Manager.

8.3 Failure of Acceptance Tests. If Acceptance Tests identify any Non-Conformities, Contractor, at Contractor's sole cost and expense, will remedy all such Non-Conformities and re-

deliver the modified Software, in accordance with the requirements set forth in the Statement of Work. Redelivery will occur as promptly as commercially possible and, in any case, within thirty (30) Business Days following, as applicable, Contractor's:

(a) completion of such Acceptance Tests, in the case of Acceptance Tests conducted by Contractor; or

(b) receipt of the State's notice under **Section 8.1(a)** or **Section 8.2(c)(i)**, identifying any Non-Conformities.

8.4 Repeated Failure of Acceptance Tests. If Acceptance Tests identify any Non-Conformity in the modified Software after a second or subsequent delivery of the modified Software, or Contractor fails to re-deliver the modified Software on a timely basis, the State may, in its sole discretion, by written notice to Contractor:

(a) continue the process set forth in this **Section 8**;

(b) accept the modified Software as a nonconforming deliverable, in which case the Fees for such Software will be reduced equitably to reflect the value of the modified Software as received relative to the value of the Software had it conformed; or

(c) deem the failure to be a non-curable material breach of the Statement of Work and terminate the Statement of Work for cause in accordance with **Section 15.1**.

8.5 Acceptance. Acceptance ("**Acceptance**") of the modified Software (subject, where applicable, to the State's right to Integration Testing) will occur on the date that is the earliest of the State's delivery of a notice accepting the Software under **Section 8.2(b)**, or **Section 8.2(c)(ii)**.

9. Training. Upon the State's request, Contractor shall timely provide training for Authorized Users or other additional training on all uses of the Software for which the State requests such training, at such reasonable times and locations that the parties agree to, and pursuant to such rates as are set forth in the Pricing Schedule.

10. Fees

10.1 Fees. For the provision of Support Services as required under the Maintenance and Support Schedule, the State shall pay to Contractor the Support Services fees (the "**Support Service Fees**") set forth in the Pricing Schedule, subject to and in accordance with the terms and conditions of this Contract. For the order of additional licenses of the Software, the State shall pay to Contractor the per-user license fees (the "**License Fee**") set forth on the Pricing Schedule, subject to and in accordance with the terms and conditions of this Contract. For development work associated with Enhancements, the State and Contractor will negotiate a firm, fixed-price fee, which will be set forth in an executed Change Notice to the Contract. For training services, the State will pay the rates set forth in the Pricing Schedule.

10.2 Firm Pricing/Fee Changes. All Pricing set forth in this Contract is on a firm, fixed price basis, and will not be increased during the Term.

11. Invoices and Payment.

11.1 Invoices. Contractor will invoice the State for Fees in accordance with the following requirements. Each separate invoice must:

- (a) clearly identify the Contract to which it relates;
- (b) list each Fee item separately;
- (c) include sufficient detail for each line item to enable the State to satisfy its accounting and charge-back requirements; and
- (d) include such other information as may be communicated by the State in writing.

11.2 Payment. Invoices are due and payable by the State, in accordance with the State's standard payment procedures as specified in 1984 Public Act no. 279, MCL 17.51, *et seq.*, within forty-five (45) calendar days after receipt, provided the State determines that the invoice was properly rendered. The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

11.3 Taxes. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services or products purchased under this Contract are for the State's exclusive use. Notwithstanding the foregoing, all Fees are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

11.4 Payment Disputes. The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute, provided that the State:

- (a) timely renders all payments and amounts that are not in dispute;
- (b) notifies Contractor of the dispute prior to the due date for payment, specifying in such notice:
 - (i) the amount in dispute; and
 - (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties;

- (c) works with Contractor in good faith to resolve the dispute promptly; and
- (d) promptly pays any amount determined to be payable by resolution of the dispute.

Contractor shall not withhold any Services or fail to perform any obligation hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 11.4** or any dispute arising therefrom.

11.5 Right of Setoff. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

12. Intellectual Property Rights

12.1 Ownership Rights in Software

(a) Subject to the rights and licenses granted by Contractor in this Contract, and the provisions of **Section 12.1(b)**:

- (i) Contractor reserves and retains its entire right, title and interest in and to all Intellectual Property Rights arising out of or relating to the Software; and
- (ii) none of the State or Authorized Users acquire any ownership of Intellectual Property Rights in or to the Software or Documentation as a result of this Contract.

(b) As between the State, on the one hand, and Contractor, on the other hand, the State has, reserves and retains, sole and exclusive ownership of all right, title and interest in and to User Data, including all Intellectual Property Rights arising therefrom or relating thereto.

13. Confidential Information. Each party acknowledges that it may be exposed to or acquire communication or data of the other party that is confidential in nature and is not intended to be disclosed to third parties. This **Section 13** survives termination or expiration of this Contract.

13.1 Meaning of Confidential Information. The term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was or is: (a) in the possession of the State and subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a

source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party).

13.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor's subcontractor is permissible where: (a) the subcontractor is a Permitted Subcontractor; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor's responsibilities; and (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any of the Contractor's Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 13.2**.

13.3 Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract. Each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

13.4 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

13.5 Surrender of Confidential Information upon Termination. Upon termination or expiration of this Contract or a Statement of Work, in whole or in part, each party must, within five (5) Business Days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control. If Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and certify the same in writing within five (5) Business Days from the date of termination to the other party.

14. ADA Compliance. If the Software is required to be compliant with the Americans with Disabilities Act or Section 508 of the Workforce Rehabilitation Act of 1973, such compliance requirements shall be specified in a Statement of Work.

15. Termination, Expiration, Transition. The State may terminate this Contract, the Support Services, or any Statement of Work, in accordance with the following:

15.1 Termination for Cause. In addition to any right of termination set forth elsewhere in this Contract:

(a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of State Systems, State data, or the State's facilities or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; or (iii) breaches any of its material duties or obligations under this Contract. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this **Section 15.1**, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of this Contract, the termination will be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 15.2**.

(c) The State will only pay for amounts due to Contractor for Services accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination, including any prepaid Support Services Fees. Further, Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Services from other sources.

15.2 Termination for Convenience. The State may immediately terminate this Contract in whole or in part, without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance immediately, or (b) continue to perform in accordance with **Section 15.3**. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

15.3 Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar

days; the “**Transition Period**”), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the Services at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or the State’s designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all State data in the possession of Contractor; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, the “**Transition Responsibilities**”). The Term of this Contract is automatically extended through the end of the Transition Period.

15.4 Survival. This **Section 15** survives termination or expiration of this Contract.

16. Stop Work Order. The State may, at any time, order the Services of Contractor fully or partially stopped for its own convenience for up to ninety (90) calendar days at no additional cost to the State. The State will provide Contractor a written notice detailing such suspension (a “**Stop Work Order**”). Contractor must comply with the Stop Work Order upon receipt. Within 90 days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate this Contract. The State will not pay for any Services, Contractor’s lost profits, or any additional compensation during a stop work period.

17. Contractor Representations and Warranties.

17.1 Authority. Contractor represents and warrants to the State that:

(a) It is duly organized, validly existing, and in good standing as a corporation or other entity as represented under this Contract under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;

(b) It has the full right, power, and authority to enter into this Contract, to grant the rights and licenses granted under this Contract, and to perform its contractual obligations;

(c) The execution of this Contract by its Representative has been duly authorized by all necessary organizational action; and

(d) When executed and delivered by Contractor, this Contract will constitute the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms.

17.2 Software Representations and Warranties. Contractor further represents and warrants to the State that:

(a) it is the legal and beneficial owner of the entire right, title and interest in and to the Software, including all Intellectual Property Rights relating thereto;

(b) it has, and throughout the license term, will retain the unconditional and irrevocable right, power and authority to grant and perform the license hereunder;

(c) the Software, and the State's use thereof, is and throughout the license term will be free and clear of all encumbrances, liens and security interests of any kind;

(d) neither its grant of the license, nor its performance under this Contract does or to its knowledge will at any time:

- (i) conflict with or violate any applicable Law;
- (ii) require the consent, approval or authorization of any governmental or regulatory authority or other third party; or
- (iii) require the provision of any payment or other consideration to any third party;

(e) when used by the State or any Authorized User in accordance with this Contract and the Documentation, the Software or Documentation as delivered or installed by Contractor does not or will not:

- (i) infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party; or
- (ii) fail to comply with any applicable Law;

(f) when used in the Operating Environment (or any successor thereto) in accordance with the Documentation, all Software as provided by Contractor, will be fully operable, meet all applicable specifications, and function in all respects, in conformity with this Contract and the Documentation;

(g) as provided by Contractor, the Software does not or will not at any time during the license term contain any Harmful Code;

(h) all Documentation is and will be complete and accurate in all material respects when provided to the State such that at no time during the license term will the Software have any material undocumented feature; and

(i) it will perform all Services in a timely, skillful, professional and workmanlike manner in accordance with commercially reasonable industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet its obligations under this Contract.

17.3 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH ELSEWHERE IN THIS AGREEMENT, THE SOFTWARE AND SERVICES ARE PROVIDED “AS IS” AND “WITH ALL FAULTS” WITHOUT REPRESENTATIONS OR

WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND ALL USE OF THE SOFTWARE IS AT THE STATE'S OWN RISK. WITHOUT LIMITING THE FOREGOING, CONTRACTOR HEREBY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. LICENSOR DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE OR MEET THE STATE'S PARTICULAR BUSINESS, TECHNICAL OR OTHER REQUIREMENTS. THE STATE IS SOLELY RESPONSIBLE FOR THE SECURITY AND INTEGRITY OF ITS NETWORK, SYSTEMS AND DATA.

17.4 Exclusions. The Software and Services warranties provided by Contractor specifically exclude, and Contractor makes no warranties and assumes no Support or other obligations or liabilities for problems arising out of or related to: (i) misuse, neglect or abuse of the Software; (ii) modifications to the Software or to The State's database structure not made or approved by Contractor; (iii) failure to install and use the most current release of the Software or the immediately prior release, or to implement Updates, recommendations or solutions previously supplied or made available by Contractor; (iv) The State's network, firewall, systems, hardware, third party software or data, including a decision to operate on a system incompatible with the then-current system requirements for the Software; (v) back-up, replication or recovery of files or data, including corruption or loss of data or Software due to The State hardware failure or fault (although Contractor will use reasonable efforts to assist if such problems arise); or (vi) acts or omissions of third parties, telecommunications failures, force majeure or other events beyond Contractor's reasonable control. Contractor reserves the right to charge at its then-current time and materials rates for any services provided in connection with responding to, investigating and resolving warranty claims or Support requests made by The State that are outside the scope of warranty and Support coverage.

18. Indemnification

18.1 General Indemnification. Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any infringement, misappropriation, or other violation of any Intellectual Property Right or other right of any Third Party; and (b) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

18.2 Indemnification Procedure. The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial

ability to carry out these obligations. The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions, under this **Section 18**, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

18.3 Infringement Remedies.

(a) The remedies set forth in this **Section 18.3** are in addition to, and not in lieu of, all other remedies that may be available to the State under this Contract or otherwise, including the State's right to be indemnified for such actions.

(b) If any Software or any component thereof, other than State Materials, is found to be infringing or if any use of any Software or any component thereof is enjoined, threatened to be enjoined or otherwise the subject of an infringement claim, Contractor must, at Contractor's sole cost and expense:

- (i) procure for the State the right to continue to use such Software or component thereof to the full extent contemplated by this Contract; or
- (ii) modify or replace the materials that infringe or are alleged to infringe ("**Allegedly Infringing Materials**") to make the Software and all of its components non-infringing while providing fully equivalent features and functionality.

(c) If neither of the foregoing is possible notwithstanding Contractor's best efforts, then Contractor may direct the State to cease any use of any materials that have been enjoined or finally adjudicated as infringing, provided that Contractor will:

- (i) refund to the State all amounts paid by the State in respect of such Allegedly Infringing Materials and any other aspects of the Software provided under the Statement of Work for the Allegedly Infringing Materials that the State cannot reasonably use as intended under this Contract; and
- (ii) in any case, at its sole cost and expense, secure the right for the State to continue using the Allegedly Infringing Materials for a transition period of up to six (6) months to allow the State to replace the affected features of the Software without disruption.

(d) If Contractor directs the State to cease using any Software under **subsection (c)**, the State may terminate this Contract for cause under **Section 15.1**.

- (e) Contractor will have no liability for any claim of infringement arising solely from:
 - (i) Contractor's compliance with any designs, specifications, or instructions of the State; or
 - (ii) modification of the Software by the State without the prior knowledge and approval of Contractor;

unless the claim arose against the Software independently of any of the above specified actions.

19. Damages Disclaimers and Limitations.

19.1 Disclaimer of Damages. NEITHER PARTY WILL BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES.

19.2 Limitation of Liability. IN NO EVENT WILL THE EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.

20. Records Maintenance, Inspection, Examination, and Audit.

20.1 Right of Audit. The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to this Contract through the Term of this Contract and for four (4) years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Financial Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Financial Audit Period, Contractor must retain the records until all issues are resolved.

20.2 Right of Inspection. Within ten (10) calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Services are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of this Contract must be paid or refunded within forty-five (45) calendar days.

20.3 Application. This **Section 20** applies to Contractor and any Permitted Subcontractor that performs Services in connection with this Contract.

21. Insurance

21.1 Required Coverage.

(a) **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better and a financial size of VII or better.

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

(b) If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

(c) If any of the required policies provide claim-made coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of contract work; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the contract of work; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

(d) Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

21.2 Non-waiver. This **Section 21** is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

22. Dispute Resolution.

22.1 The parties will endeavor to resolve any Contract dispute in accordance with **Section 22** (the "**Dispute Resolution Procedure**"). The initiating party will reduce its description of the dispute to writing (including all supporting documentation) and deliver it to the responding party's Project Manager. The responding party's Project Manager must respond in writing within five (5) Business Days. The initiating party has five (5) Business Days to review the response. If after such review resolution cannot be reached, both parties will have an additional five (5) Business Days to negotiate in good faith to resolve the dispute. If the dispute cannot be resolved within a total of fifteen (15) Business Days, the parties must submit the dispute to the parties' Contract Administrators. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

22.2 Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' Contract Administrators, and either Contract Administrator concludes that resolution is unlikely, or fails to respond within fifteen (15) Business Days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a

determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This **Section 22** does not limit the State's right to terminate this Contract.

23. General Provisions

23.1 Force Majeure.

(a) Force Majeure Events. Subject to **Subsection (b)** below, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

(b) State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under this Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate this Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of five (5) Business Days or more. Unless the State terminates this Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under this Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

23.2 Further Assurances. Each party will, upon the reasonable request of the other party, execute such documents and perform such acts as may be necessary to give full effect to the terms of this Contract.

23.3 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Contract is to be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.

23.4 Media Releases. News releases (including promotional literature and commercial advertisements) pertaining to this Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.

23.5 Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Contract must be in writing and addressed to the parties as follows (or as otherwise specified by a party in a notice given in accordance with this **Section 23.5**):

If to Contractor: Legal Files, Inc.
2730 S. Mac Arthur Blvd.
Springfield MI, 62704
Email: gordon.hack@legalfiles.com

 Attention: Gordon Hack

If to State: Michigan Attorney General
P.O. Box 30754
Lansing, MI 48909
Email: DeCastilhosD@michigan.gov

 Attention: Denys De Castilhos

And

State of Michigan
Enterprise Procurement
P.O. Box 30026
530 West Allegan
Lansing, Michigan 48909

Email: NatarajanMD@michigan.gov

Attention: Malathi Natarajan

Notices sent in accordance with this **Section 23.5** will be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with confirmation of transmission), if sent during normal business hours of the recipient, and on the next Business Day, if sent after normal business hours of the recipient; or (d) on the fifth (5th) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

23.6 Headings. The headings in this Contract are for reference only and do not affect the interpretation of this Contract.

23.7 Assignment. Contractor may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Contract, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the State's prior written consent. The State has the right to terminate this Contract in its entirety or any Services or Statements of Work hereunder, pursuant to **Section 15.1**, if Contractor delegates or otherwise transfers any of its obligations or performance hereunder, whether voluntarily, involuntarily, by operation of law or otherwise, and no such delegation or other transfer will relieve Contractor of

any of such obligations or performance. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Contractor (regardless of whether Contractor is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Contract for which the State's prior written consent is required. Any purported assignment, delegation, or transfer in violation of this **Section 23.7** is void.

23.8 No Third-party Beneficiaries. This Contract is for the sole benefit of the parties and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to or will confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Contract.

23.9 Amendment and Modification; Waiver. No amendment to or modification of this Contract is effective unless it is in writing, identified as an amendment to this Contract and signed by both parties Contract Administrator. Further, certain amendments to this Contract may require State Administrative Board Approval. No waiver by any party of any of the provisions of this Contract will be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Contract, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Contract will operate or be construed as a waiver. Nor will any single or partial exercise of any right, remedy, power or privilege under this Contract preclude the exercise of any other right, remedy, power or privilege.

23.10 Severability. If any term or provision of this Contract is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto will negotiate in good faith to modify this Contract so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

23.11 Governing Law. This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or forum non conveniens. Contractor must appoint agents in Michigan to receive service of process.

23.12 Equitable Relief. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract may give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may

be available to such party at law, at equity or otherwise in respect of such breach, entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Contract agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this **Section 23.12**.

23.13 Nondiscrimination. 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.*, Contractor and its Permitted Subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.

23.14 Unfair Labor Practice. Under MCL 423.324, the State may void any Contract with a Contractor or Permitted Subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

23.15 Schedules All Schedules that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Schedule A	Maintenance and Support Schedule
Schedule B	Pricing Schedule

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

23.17 Effect of Contractor Bankruptcy. All rights and licenses granted by Contractor under this Contract are and will be deemed to be rights and licenses to “intellectual property,” and all Software is and will be deemed to be “embodiments” of “intellectual property,” for purposes of, and as such terms are used in and interpreted under, Section 365(n) of the United States Bankruptcy Code (the “**Code**”). If Contractor or its estate becomes subject to any bankruptcy or similar proceeding, the State retains and has the right to fully exercise all rights, licenses, elections, and protections under this Contract, the Code and all other applicable bankruptcy,

insolvency, and similar Laws with respect to all Software. Without limiting the generality of the foregoing, Contractor acknowledges and agrees that, if Contractor or its estate shall become subject to any bankruptcy or similar proceeding:

(a) all rights and licenses granted to the State under this Contract will continue subject to the terms and conditions of this Contract, and will not be affected, even by Contractor's rejection of this Contract; and

(b) the State will be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property comprising or relating to any Software, and the same, if not already in the State's possession, will be promptly delivered to the State, unless Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

23.18 Compliance with Laws. Contractor and its Representatives must comply with all Laws in connection with this Contract.

23.19 Non-Exclusivity. Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Services from other sources.

23.20 Entire Agreement. This Contract, together with all Schedules constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Contract and the Schedules, the following order of precedence governs: (a) first, this Contract, excluding its Schedules; and (b) second, the Schedules to this Contract. NO TERMS ON CONTRACTORS WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, OR DOCUMENTATION HEREUNDER WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

**SCHEDULE A
MAINTENANCE AND SUPPORT**

Legal Files Software | Services Description

This Exhibit describes the training, data conversion, maintenance and support and other services made available by Licensor to eligible licensees of the Software, and details Licensor's and Customer's responsibilities in connection with any order for such services.

A. Training

Licensor will provide any training ordered by Customer in accordance with Licensor's standard training methods and using its standard training materials. Training is provided onsite at Licensor's then-current daily rate plus reimbursement of travel and expenses. Additionally, if required, there is a \$50 per computer and \$100 per projector surcharge (plus shipping) for training conducted at Customer's office using Licensor's equipment. If outside training facilities and equipment are utilized, such outside costs are Customer's responsibility.

B. Electronic Data Conversion

Licensor will provide data conversion services ordered by Customer at its then-current rates and in accordance with its standard electronic data conversion procedures. Where the order specifies a number of hours for the data conversion, such number is an estimate only, and subject to adjustment based on format, quality and quantity of Customer data, timeliness of Customer cooperation and other factors outside of Licensor's reasonable control. The general progression and allocation of responsibility for data conversion services is as follows:

- Data conversion programs will be created at Licensor's facilities. In order to prepare the conversion program, all source data must be provided by Customer to Licensor in an acceptable, machine-readable format and must be corruption free.
- If necessary, including where in-house expertise or local consultants are not available, Licensor will visit Customer's site to obtain the source data and documentation required to create the conversion program. Such onsite services will be charged at Licensor's daily consulting rate plus reimbursement of travel and expenses.
- Data scrubbing is the process of fixing or eliminating individual pieces of data that are incorrect, incomplete or duplicated in the source database when the data is passed to the target database. Unless specifically noted in the order, Licensor's conversion estimate does not include data scrubbing. If desired or required, such services will be made available at an additional charge.
- Licensor will create a data mapping document that defines where the source data will reside in the target Software database. Once complete, the data mapping document must be approved by Customer via email or other writing before the conversion program can be created.
- Licensor will perform a test data conversion to provide Customer with the ability to review the source data as it was mapped and will appear in the Software application. The test data conversion must be approved by Customer via email or other writing before the final data conversion can be performed.
- If changes to the data mapping document or test data conversion are requested by Customer after they have been approved, Licensor reserves the right to charge an additional fee for time worked, and to delay any previously estimated completion dates.

C. Maintenance and Support

During the initial Support term and each renewal of Support, Licensor will provide Support to Customer in its use and operation of the Software comprised of the following:

(a) *General.* Customer may contact Licensor with questions and troubleshooting related to use and operation of the Software, as well as for remote diagnosis and priority resolution of material bugs, errors or other malfunctions encountered using the Software. A bug, error or malfunction is deemed "material" if it represents a nonconformity of the Software with Licensor's then-current published specifications and materially interferes with or degrades usability of the Software.

(b) *Contacting Technical Support.* Support queries may be submitted by email at Support@LegalFiles.com or by phone at (217) 726-6400 during Licensor's normal business hours: Monday through Friday from 8:00 a.m. to 5:00 p.m. U.S. Central Time (excluding holidays). Customer must appoint one primary contact person and one alternate contact person who have been trained and are competent in use and operation of the Software to place technical support queries.

(c) *Classification of Issues.* When contacting Licensor for Support, Customer should assign an initial severity based on the severity level classifications listed below, and should provide a detailed description of the issue or support request. The initial assignment of severity may be raised or lowered by Licensor, in its reasonable discretion, based on the information provided by Customer and/or subsequent diagnosis or remediation efforts, including the availability of a work-around.

Level	Description
1	A problem with the Software which renders the Software inoperative or causes a significant and ongoing interruption to Customer's business activities.
2	A problem with the Software which degrades or disrupts operation, but does not cause a significant and ongoing interruption to Customer's business activities.
3	A problem with the Software which has only a minor impact on Customer's business activities, or for which an acceptable work-around is readily available.
4	General questions, suggestions and feedback pertaining to use and operation of the Software.

(d) *Initial Response; Status Updates.* Licensor will use commercially reasonable efforts to provide an initial response and ongoing status updates for support requests within the target timeframes listed below. All timeframes are during Licensor's *normal business hours only*, and are further subject to Customer providing all information and assistance reasonably requested in connection therewith. Licensor will escalate support requests through its technical support channels as necessary to address covered support issues.

Level	Initial Response	Status Update
1	2 hours	Daily until workaround or correction available.
2	4 hours	Every 2 days until workaround or correction available.
3	1 day	As necessary or upon request.
4	2 days	As necessary or upon request.

(e) *Remote Access.* Upon request, Customer will provide Licensor remote access to Customer's computer system for the purpose of remote diagnostics. Any such remote access will be subject to Customer's remote access security policies and procedures as communicated to Licensor at the time.

(f) *On-Site Visits.* If in the reasonable judgment of the parties, an onsite visit to Customer's facility is necessary to resolve a critical problem, Licensor will make an onsite visit. If the critical problem was not caused by a defect in the current or immediately preceding release of the Software or is otherwise outside of warranty and Support coverage, Customer will reimburse Licensor for the onsite visit at Licensor's then-current daily consulting rate plus reimbursement of travel and expenses.

E. Customer Responsibilities

In connection with Support and all other Services provided by Licensor, Customer is responsible for: (i) assigning qualified personnel to coordinate with Licensor regarding Services; (ii) selecting and maintaining all third party hardware, software, peripherals and connectivity necessary to meet the system requirements for the Software; (iii) creating a restore point for its systems and backing up and verifying all data; and (iv) adopting reasonable measures to ensure the safety, security, accuracy and integrity of Customer's facilities, systems and network. Licensor will have no responsibility or liability arising out of or resulting in whole or in part from Customer's failure or delay to perform any such responsibilities, or for acts or omissions of third parties, Internet or telecommunications failures, or force majeure or other events beyond Licensor's reasonable control.

SCHEDULE B

PRICING SCHEDULE

Pricing		
Maintenance and Support	Price	New Web Form Project Additions
Maintenance and support (all licenses) (2-year base term) Includes 590 user licenses of web application mode Web Forms Import and ACT Interface.	Year 1 = \$154,700.00 (\$135,700 for licenses and \$19,000 for Web Forms Import and Act Interface) Year 2 = \$154,700.00 (\$135,700 for licenses and \$19,000 for Web Forms Import and Act Interface)	Year 1 \$31,320¹ Year 2 \$31,320
Maintenance and support (all licenses) (option year 1) Includes 590 user licenses of web application mode Web Forms Import and ACT Interface.	\$170,000.00 (\$147,000 for licenses and \$23,000 for Web Forms Import and Act Interface)	\$32,260.00
Maintenance and support (all licenses) (option year 2) Includes 590 user licenses of web application mode Web Forms Import and ACT Interface.	\$175,100.00 (\$151,410 for licenses and \$23,690 for Web Forms Import and Act Interface)	\$33,228.00
Maintenance and support (all licenses) (option year 3) Includes 590 user licenses of web application mode Web Forms Import and ACT Interface.	\$180,352.00 (\$155,952 for licenses and \$24,400 for Web Forms Import and Act Interface)	\$34,225.00
Maintenance and support (all licenses) (option year 4) Includes 590 user licenses of web application mode Web Forms Import and ACT Interface.	\$185,763.00 (\$160,631 for licenses and \$25,132 for Web Forms Import and Act Interface)	\$35,252.00
Aggregate Cost	\$1,020,615.00	\$197,605

1. Amount for Year 1 (FY 2017) maintenance for the New Web Form Project Additions will be prorated from the date the project is fully completed and accepted by the State and is running in production. Contractor will not invoice until such time.

Rate Card		
Service	Rate	Notes
Custom Modification/Configuration	\$200 per hour	
In-person end-user training	\$2,100 per day	
In-person train the trainer training	\$2,100 per day	
Web-based training	\$300 per 2 hour session	Annual maintenance and support will include 4-2 hour training sessions at no cost

Additional Licenses	
User License (per unit)	\$1,190 per user