

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

June 5, 2012

CHANGE NOTICE NO. 3

to

CONTRACT NO. 071B9200218

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
HTC Global Services, Inc. 3270 West Big Beaver Road Troy, MI 48084	James Joseph	James.joseph@htcinc.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(248) 786-2500	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Cindy Turben		turbenc@michigan.gov
BUYER:	DTMB	Tammi Hart	(517) 335-4770	Hartt3@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: DTMB ORS Staff Augmentation			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
May 5, 2009	May 4, 2012		May 4, 2012
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	IF YES, EFFECTIVE DATE OF CHANGE: May 5, 2012	NEW EXPIRATION DATE: May 4, 2013
Effective immediately, this contract is hereby INCREASED by \$3,574,218.00 and EXTENDED to May 4, 2013. The following changes are incorporated into this contract (please see attachment). Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on June 5, 2012.		
VALUE/COST OF CHANGE NOTICE:		\$3,574,218.00
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		\$14,099,538.00

Annexure A

Subject: Extension of Contract # 071B9200218 between DTMB-ORS and HTC Global Services – DTMB/ORS Response

This is to respond to the HTC Global Services request for confirmation of the rates and terms of the option year extension of contract # 071B9200218 between DTMB-ORS and HTC Global Services

DTMB/ORS agrees to the HTC option year acceptance letter dated May 4, 2012 with the following clarifications and corrections:

Clarifications

DTMB/ORS understands that HTC agrees to the following terms:

- Extend Contract #071B9200218 between DTMB-ORS and HTC for one year from 5/5/2012 to 5/4/2013.
- HTC will forego the first two weeks of billing for any resource that replaces a staff member who quits prior to completing 6 months on the project.
- DTMB/ORS agrees to the creation of a Steering committee consisting of representatives from ORS –AST, ORS Business users and HTC, that will have oversight of this engagement and will be responsible to measure the performance of HTC.
- Execution of the contract within all terms specified including, but not limited to, the following:
 - HTC will meet with the contract project manager each month at a minimum to present and discuss the performance report specified in the Contract.
 - Compliance with contract sections 1.201, 1.301, 1.302, 1.401.

DTMB/ORS understands that HTC cannot agree to the following terms:

- HTC will provide one shadow resource at all times for Java developers at their cost.
- The alternate Model and Manage Services Option are efficiency recommendations that were to be discussed after the contract option year agreement was completed as discussed at the April 27, 2012 meeting. Therefore these recommendations in the HTC contract option year acceptance letter are rejected.
- HTC commits to give full 2 weeks (10 business days) notice to ORS from the day of resignation notice for consultants. In case of a shorter notice, HTC is willing to pay a penalty equivalent to the billing at the hourly rate for that consultant for the number of hours short.

- Billing rates

- The following are the rates as agreed upon per role identified on the HTC Staff Augmentation contract; these rates will be in effect as of May 5, 2012.

Role	Rates
Sr. Systems Analyst	\$70
Java programmer Analyst	\$50
Technical support analyst	\$47
Scheduler - Batch	\$42
Project Manager	\$85
Project coordinator(Jr PM)	\$45
Configuration Manager	\$55
Technical Architect	\$93
Quality Assurance Test Analyst	\$47

The current HTC staff are listed along with the agreed upon rates

Thasin Sardar	Technical Architect	\$93.00
Venkat Ramakrishnan	Technical Architect	\$93.00
Cora Foley	Project Manager	\$87.50
Ron Noble	Jr. Project Manager	\$45.00
Mahesh Shanmugasundaram	Functional Analyst	\$70.00
Mohamed Yacoob	Functional Analyst	\$70.00
Bhaskar gutikonda	Functional Analyst	\$70.00
Jaya Tamarkar	Senior System Analyst	\$70.00
Mark Bennett	Technical Writer	\$65.00
Matt Arman	Scheduler - Batch	\$42.00
Ron Dembo	Scheduler - Batch	\$42.00
Keith Kismicki	SQL Developer	\$50.00
Ashok Chilla	Java Developer	\$50.00
Bhaskar Yerra	Java Developer	\$50.00
Bhavana Kodumuri	Java Developer	\$50.00
Deepika Rayapally	Java Developer	\$50.00
Sireesha Karasala	Java Developer	\$50.00
Sivani Kasukurthi	Java Developer	\$50.00
Vamshi Kurapati	Java Developer	\$50.00

Ajay Kumar Singh	Java Developer	\$50.00
satish babu	Java Developer	\$50.00
Prince Sharma	Java Developer	\$50.00
Sanjeev Kondal	QA Tester	\$47.00
Aruna Padma Chitte	QA Tester	\$47.00
Pratima Doddapaneni	QA Tester	\$47.00
Shreekar Basrur	Config Manager	\$55.00
Subashini Boopalan	.Net Developer	\$55.00

The rates for the restart contract staff will be changed to reflect the agreement. Staff and rate are as follows.

Annarlingam Subramaniam	Java Developer	\$50.00
Gurpreet Singh	Java Developer	\$50.00
Kulvir Singh	Java Developer	\$50.00
Pooja Kansal	Java Developer	\$50.00
Sunil Bathla	Java Developer	\$50.00

NOTE: There is one other rate that needs to be corrected. Mark Bennett is a technical writer; the title he is under is incorrectly identified on the HTC contract option year acceptance letter. DTMB/ORS are agreeable to \$65 per hour for this resource.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET November 22, 2011
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B9200218
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR HTC Global Services, Inc. 3270 West Big Beaver Rd Troy, MI 48084 Email: james.joseph@htcinc.com		TELEPHONE James Joseph 248-786-2500
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 335-4770 Tammi Hart
Contract Compliance Inspector: Cindy Turben DTMB ORS Staff Augmentation		
CONTRACT PERIOD: From: May 5, 2009 To: May 4, 2012		
TERMS N/A	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION:		

NATURE OF CHANGE(S):

The following has been incorporated into this contract:

- | | |
|-----------------------------|----------|
| (1) Annarlingam Subramaniam | \$45/hr. |
| (2) Sunil Bathla | \$45/hr. |
| (3) Pooja Kansal | \$45/hr. |
| (4) Gurpreet Singh | \$45/hr. |
| (5) Kulvir Puri | \$45/hr. |

Please note the buyer changed to Tammi Hart.

AUTHORITY/REASON(S):

Per vendor and DTMB Procurement / ORS agreement.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$10,525,320.00

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET December 1, 2010
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B9200218
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR HTC Global Services, Inc. 3270 West Big Beaver Rd Troy, MI 48084 Email: james.joseph@htcinc.com	TELEPHONE James Joseph 248-786-2500
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Cindy Turben MDIT/DMB ORS Staff Augmentation	
CONTRACT PERIOD: From: May 5, 2009 To: May 4, 2012	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	
MISCELLANEOUS INFORMATION:	

Nature of Change(s);

Effective immediately, this contract is hereby **INCREASED** by \$2,925,00.00. Please note that James Joseph is the new HTC Contract Administrator, in place of Gary LaRoy and that Jim Parker is the new HTC Account Manager, in place of Julie Rodriguez.

AUTHORITY/REASON(S):

Per vendor and DTMB Purchasing Operations agreement and the approval of the State Administrative Board on 11/16/10.

INCREASE: \$2,925,000.00

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$10,525,320.00

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

May 4, 2009

NOTICE
OF
CONTRACT NO. 071B9200218
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR HTC Global Services, Inc. 3270 West Big Beaver Rd Troy, MI 48084 Email: gary.laroy@htcinc.com		TELEPHONE Gary LaRoy 248-786-2500
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Cindy Turben MDIT/DMB ORS Staff Augmentation		
CONTRACT PERIOD: From: May 5, 2009 To: May 4, 2012		
TERMS N/A	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of ITB #071I9200089, this Contract Agreement and the vendor's quote dated February 24, 2009. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence. Estimated Contract Value: \$7,600,320.00		

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I9200089. Orders for delivery will be issued directly by the Department of Information Technology through the issuance of a Purchase Order Form.

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

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

CONTRACT NO. 071B9200218
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR HTC Global, Inc. 3270 West Big Beaver Rd Troy, MI 48084		TELEPHONE Gary LaRoy 248-786-2500
		CONTRACTOR NUMBER/MAIL CODE
Email: gary.laroy@htcinc.com		BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Cindy Turben MDIT/DMB ORS Staff Augmentation		
CONTRACT PERIOD: From: May 5, 2009 To: May 4, 2012		
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Estimated Contract Value: \$7,600,320.00		

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

FOR THE CONTRACTOR:	FOR THE STATE:
HTC Global	
Firm Name	
Authorized Agent Signature	Greg Faremouth, Director
Authorized Agent (Print or Type)	Name/Title
	IT Division
	Division
Date	Date



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DEFINITIONS

Days	Means calendar days unless otherwise specified.
24x7x365	Means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
Additional Service	Means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Audit Period	See Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DMB	Michigan Department of Management and Budget
Environmentally preferable products	A product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those that contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.
Excusable Failure	See Section 2.244.
Hazardous material	Any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).
Incident	Any interruption in Services.
ITB	A generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
New Work	Any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Ozone-depleting substance	Any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydro chlorofluorocarbons
Post-Consumer Waste	Any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.
Post-Industrial Waste	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Recycling	The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.
Deleted – Not Applicable	Section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.
Reuse	Using a product or component of municipal solid waste in its original form more than once.



RFP	Request for Proposal designed to solicit proposals for services
Services	Any function performed for the benefit of the State.
Source reduction	Any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.
State Location	Any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
Subcontractor	A company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
Unauthorized Removal	Contractor's removal of Key Personnel without the prior written consent of the State.
Waste prevention	Source reduction and reuse, but not recycling.
Waste reduction and Pollution prevention	The practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.
Work in Progress	A Deliverable that has been partially prepared, but has not been presented to the State for Approval.
Work Product	Refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.



Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 Project Request

The State of Michigan (State), through the Department of Management and Budget (DMB), with assistance of the Department of Information Technology (DIT), has issued this contract for IT professional staff augmentation services on an as needed basis to support and maintain the DMB Office of Retirement Services (ORS)/DIT IT development and infrastructure programs and systems.

1.002 Background

DIT was created on October 14, 2001, by Executive Order 2001-3, to centralize and improve the management of state information technology investments. As part of its integrated functions, MDIT assists state agencies, including ORS, in obtaining staff augmentation services. Agency supplemental staffing needs vary in terms of type and quantity of resources required, start/end dates, and length of assignments. Staff augmentation services will involve both project-oriented work and support and operations services.

During fiscal years 2005, 2006, and 2007, DIT/ORS needed between 15 - 25 contractors to support its IT development and infrastructure programs, and to maintain its existing systems. These contractors consisted of 15 long term staff and 10 short term staff.

The development, support, maintenance and enhancement of ORS applications is an on-going activity which is triggered by changes in federal and state regulations, evolving business needs, opportunities for improving business processes, continued software and hardware upgrades, and break fixes. The applications developed and maintained using resources from this contract are vital to ORS's day-to-day business operations.

Due to the dynamic nature of projects within state government, the State cannot predict the number of personnel that will be required under this contract. Therefore, the State makes no guarantees, either stated or implied, about the demand for resources provided through this procurement.

1.100 Scope of Work and Deliverables

1.101 In Scope

The scope of this contract is to provide staff augmentation services on an as-needed basis, to support ORS by functioning as a part of the Application Support Team (AST) that resides within DIT/Agency Services.

The IT classifications in scope are:

- ❖ Senior System Analyst
- ❖ Java Programmer Analyst
- ❖ Technical Support Analyst
- ❖ Scheduler – Batch
- ❖ Project Manager
- ❖ Project Coordinator
- ❖ Configuration Management
- ❖ Technical Architect
- ❖ Quality Assurance Tech Analyst

The activities that will be performed by the vendor include support for architecture design, development, testing, and maintenance of web and/or client-server applications that support their day-to-day business operations.



The vendor staff will work alongside DIT employees to develop and maintain applications that support ORS's day-to-day business operations. These resources become familiar with DIT personnel, ORS's business processes, and DIT's State Unified Information Technology Environment (SUITE) and AST Management policies and procedures. This knowledge will be applied to all projects to which the resource is assigned. This allows the work to be completed more quickly, which translates to a cost savings for the State of Michigan.

A more detailed description of the software, services (work) and deliverables sought for this project is provided in Article 1, Section 1.104, Work and Deliverables.

1.102 Out Of Scope

Purchase of hardware, software or other commodities is not within the scope of the RFP.

1.103 Environment

The links below provide information on the State's Enterprise IT policies, standards and procedures that includes security policy and procedures, IT strategic plan, eMichigan web development and the State Unified Information Technology Environment (SUITE).

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. All services provided as a result of this RFP must comply with all applicable State IT policies and standards

Contractor(s) is required to review all applicable links provided below.

Enterprise IT Policies, Standards and Procedures:

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

All software and hardware items must run on and be compatible with the MDIT Standard Information Technology Environment. Additionally, the State must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by MDIT

Enterprise IT Security Policy and Procedures:

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

The State's security environment includes:

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

MDIT requires that its secured login security environment be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the State's Project Manager and MDIT's Office of Enterprise Security.

Any additional Agency specific security requirements above and beyond the enterprise requirements and standard terms and conditions stated in Article 2 must be provided as part of the Agency Specific Technical Environment.

IT Strategic Plan:

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

IT eMichigan Web Development Standard Tools:

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



The State Unified Information Technology Environment (SUITE):

Includes standards for project management, systems engineering, and associated forms and templates – must be followed: <http://www.michigan.gov/suite>

MDIT/ORS Technical Environment:

The MDIT/ORS Standard Information Technology Environment consists of the Desktop Environment, Project Management Tools, the Business System Development Environment, the Web / Intranet Site and Application Development Environment, the Security Environment, and the Network Environment. These environments include but are not limited to the following identified IT tools:

Window XP Desktop Environment

Microsoft Desktop tools, Novell GroupWise, Microsoft Internet Explorer,

Project Management Tools

Niku, Microsoft Project, VISIO, Serena Team Track

Development Languages and Tools

Java 1.5, J2EE 1.5, EJB 2.1, JSP 2.1, Servlet 2.4, Struts 1.2, Tiles, Hibernate 2.1.8, Web Services, SOAP 1.1, WSDL 1.1, HTML, AJAX, JMS 1.02, JTA 1.01, JDBC 2.0, JAF 1.0, RMI/IIOP 1.0, Java Mail API 1.3, JavaScript, JUnit, DBUnit, JAXP 1.1, Connector 1.0, JAAS 1.1, FileNet ISRA, Office Automation, Active PDF, ITEXT, JACL, XML, Velocity 1.2, Dozer, Log4j, Apache Commons, Active Directory, Tivoli, Rational Software Architect 7.0.0.7, Rational Rose (or SELECT Enterprise 6.2), Hyperion 8.5, Perforce 2007.2, ERWIN, Eclipse 3.2, WAS 6.1, SQL Server 2005, SQL Reporting Services(SSRS), SQL DTS, DOS-CMD, MSIIS, FileNet Visual Workflow, FileNet IDM, GECS, Customer Security Services, Custom Build and deployment scripts, Perforce

Application / Web / Internet Servers

IBM WebSphere Application Server, Microsoft 2003 Server Apache, IIS, Microsoft SQL server, MS SQL Report Builder

Web / intranet Development & Content Management Tools:

Adobe Acrobat, Macromedia Dreamweaver, Vignette Content Manager

Document Management

FileNET Active PDF, MS Word

QA / Testing

Quality Center, Quick test pro

1.104 Work and Deliverable

The work and deliverables/services for this contract include:

- IT Classifications/Skill Sets & Tasks
- Transition Plan
- Retention Plan
- Staffing Placements

IT Classifications/Skills Sets & Tasks;

See **Article 1, Attachment A** for a complete list of the required IT Classification and skill sets. The overriding requirement is that the individual must possess the skills, knowledge, and experience required to perform the duties effectively and efficiently at the level specified in the contract.



The required experience and skill requirements will change over the course of the contract. The contractor will be notified in writing of these changes and will be required to provide personnel satisfying the experience and skill requirements, as modified, which includes skills sets which identifies knowledge of any future versions of software.

Assigned tasks will vary according to the specific project needs that exist at any time during the term of this contract. The number of development and maintenance projects will vary throughout the contract period, as will the required tasks. The tasks to be performed by the vendor include, but are not limited to those listed in **Article 1, Attachment B:**

Transition Plan:

Julie Rodriguez has been identified as the Account Manager and will provide overall leadership for transition to the contractor team. She will work with the ORS/MDIT management team to finalize the transition plan, and closely manage the HTC team to ensure that we meet the plan. She will provide the business orientation for all incoming contractors.

Nauzer Kapadia has been identified as the Transition Project Manager for the duration of the transition. Nauzer will develop and deliver technical orientation training to each incoming contractor, and will closely monitor each contractor's progress in the knowledge transfer process.

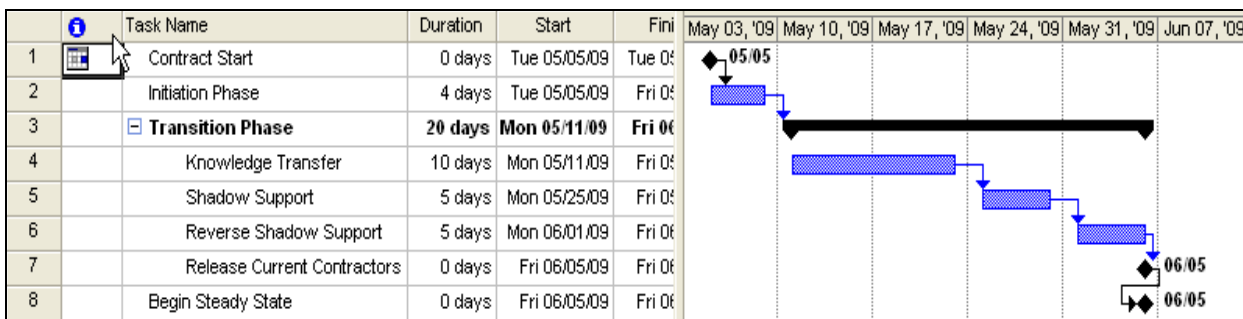
Throughout the transition, Julie and Nauzer will work closely with the ORS/MDIT management team to monitor performance against the plan and to identify and resolve any issues. This close collaboration between the HTC and ORS/MDIT leadership teams will ensure that any problems are detected very early in the transition process so that they can be corrected with minimal impact to the overall schedule.

The transition plan must include the following:

- An overview of the proposed transition plan
- A timeline for the transition, with appropriate milestones
- Identification of risks and mitigation strategies
- A description of the vendor's plan for transferring knowledge/work from existing contractors to new personnel
- A description of the roles and responsibilities during this phase for State of Michigan and Vendor responsibilities.
- A solution for saving the state money during the transition phase.

Transition Timeline

The proposed timeline for transition is shown below:



Transition of Key Contractors

ORS/MDIT expressed a desire to retain as many of the current contractors as possible under the new contract. HTC understands the importance of continuity of staff.

HTC has partnered with EDS, an HP Company, in order to secure the services of contractors currently serving ORS/MDIT. These individuals include several of the most experienced and valuable current contractor team members.



Their retention by HTC will significantly reduce the transition risk associated with loss of knowledge and interruptions in the continuity of support for ORS/MDIT.

HTC will also collaborate with ORS/MDIT to identify other key individuals and will work aggressively to retain those individuals as ORS/MDIT contractors. HTC will first attempt to hire the individuals as permanent HTC employees, but if that is impossible HTC will work with the current vendor(s) to retain the individual(s) on a short-term subcontract basis. This strategy is subject to any legally binding agreements between the current contractors and their respective employers, and to the willingness of the contractors and/or vendors to come to agreement with HTC. Under no circumstances will HTC place ORS/MDIT at risk by inducing a contractor to violate a legal agreement with his or her employer.

Knowledge Transfer Process

The process is detailed below, but the key points are:

- ❖ Thorough business and technical orientation for each HTC contractor to minimize distraction of current contractors from their day-to-day tasks.
- ❖ A “shadow” period in which each HTC contractor closely monitors the work being done by their current counterparts, assisting but not taking primary responsibility for the tasks.
- ❖ A “reverse shadow” period, during which the HTC contractor assumes primary responsibility for the work tasks, but is closely monitored by the current contractor to ensure quality and conformance to required processes.
- ❖ Formal sign-off for each individual that knowledge transfers has been completed prior to release of the current contractor.

Guaranteed Performance

In the event that an HTC employee is removed for poor performance during the transition period or one month following the transition period, HTC will issue a refund for time billed for that employee up to 160 hours to help mitigate the financial impact of training the replacement contractor.

Knowledge Transfer Plan

This section describes the process HTC will use to assume application development and support responsibilities from the current contractor team. The key objectives of the methodology are:

- ❖ Transfer application knowledge and support processes with minimal or no impact to ORS
- ❖ Provide uninterrupted break fix, maintenance and change request support, and meet service level agreements
- ❖ Continuous process and technology improvements by analyzing productivity and performance, refining processes and incorporating innovative technical solutions

The methodology is comprised of the following three phases:

- ❖ Initiation
- ❖ Transition
- ❖ Ongoing Support / Steady State

Initiation Phase

Objectives

- ❖ Establish contacts and build relationships between HTC project team and project teams from ORS/MDIT and current vendors
- ❖ Develop a clear understanding of customer expectations and agreements
- ❖ Establish the governance structure and controls for the contract
- ❖ Develop a detailed Transition Plan to be followed by all teams in the next phase (Transition Phase)



- ❖ Identify the work products (software and documents) to be transitioned
- ❖ Identify the standards and procedures to be followed in the project

The major deliverable of this phase is the Transition Plan that will be developed in collaboration with ORS/MDIT.

Activities and Responsibilities

The table below lists the major activities performed during the Initiation Phase. Responsibility for some activities may be shared between ORS/MDIT and their vendor(s).

Legend: **R**esponsible, **A**pproval, **S**upport, **I**nform, **C**onsult

#	Activities	Responsibility		
		HTC	ORS / MDIT	Current Contractors
1	Team Orientation			
	Identify key HTC team members including the seed team for knowledge transfer	R		
	Study contracts and agreements	R		
	Identify key customer personnel and contact details		R	
	Introduction of project teams, project overview and governance of the engagement	R	S	
2	Access to infrastructure			
	Provide customer the list of initial HTC account/transition team	R	A	
	Create IDs and grant access levels required for network, servers, applications, repositories, tools		R	
3	Application Overview			
	Provide application portfolio overview		R	S
	Identify documents related to the applications		R	S
	Identify system environments and user base		R	S
	Identify system components (architecture, databases, interfaces, libraries, etc.)		R	S
4	Transition Planning			
	Identify knowledge sources (SMEs, technical and process documents, repositories)	R	S	
	Identify knowledge transfer tasks and dependencies	R	A	
	Identify internal and external resources, roles and responsibilities for knowledge transfer	R	A	
	Develop schedule keeping in mind the availability of various teams	R	S	



#	Activities	Responsibility		
		HTC	ORS / MDIT	Current Contractors
	Customize Transition Checklist	R		
	Prepare and present draft Transition Plan to customer for approval	R	S	
	Incorporate feedback into Transition Plan	R	A	
	Release Transition Plan to all teams	R	A	

Guidelines

- ❖ The Initiation Phase is focused on planning and preparing for subsequent phases
- ❖ The HTC team will work with ORS/MDIT to set up a governance structure with clear roles and responsibilities and escalation procedures
- ❖ The Transition Plan will be comprised of three essential sets of tasks:
 - ◆ Knowledge Transfer
 - ◆ Shadow Support
 - ◆ Reverse Shadow Support
- ❖ The plan will provide for regular status reviews during the transition, and client signoffs on each sub-phase of transition
- ❖ Knowledge Transfer tasks will cover the following minimum documents and processes related to each application, if available:
 - ◆ Business Requirements document
 - ◆ System Requirements specification
 - ◆ Architecture document
 - ◆ System Design documents
 - ◆ User Manual
 - ◆ Operations Run Book
 - ◆ Incident and Problem Management process and procedures
 - ◆ Change Management process and procedures including emergency fixes
 - ◆ Configuration Management process
 - ◆ Disaster Recovery plan
 - ◆ Upgrade/Release plans

Transition Plan will also include tasks for development of important documents that do not currently exist (“document the undocumented”), if any.

Transition Phase

Objectives

- ❖ Perform effective Knowledge Transfer without negatively affecting current service levels for the applications



- ❖ Provide Shadow Support for problem resolution and enhancements
- ❖ Validate that HTC contractor is ready to maintain and support each application

Activities and Responsibilities

The table below lists the major activities performed during the Transition Phase. Responsibility for some activities may be shared between ORS/MDIT and their vendor(s).

Legend: **R**esponsible, **A**pproval, **S**upport, **I**nforn, **C**onsult

#	Activities	Responsibility		
		HTC	ORS / MDIT	Current Contractors
1	Knowledge Transfer			
	Provide existing technical documentation (e.g. BRD, SRS, user cases, test cases, data model, dataflow, etc.)		R	S
	Inventory all documents and code received, and create a knowledge repository for managing the documents and tracking the knowledge acquired	R	A	
	Understand application environments (dev, test, pre-prod, prod)	R		
	Provide demonstration of application		R	S
	Understand business processes and data flows	R		S
	Understand data models	R		S
	Understand architecture of application	R		S
	Interviews and joint workshops for Q & A related to the application	R		S
	Review source code	R		
	Study sample past problem tickets of all severity types, and their resolutions	R		S
	Assess stability of application and baseline current performance levels	R		
	Study development and documentation standards	R		S
	Understand the development and support processes: change & configuration management, testing, QA, user acceptance, release and problem management	R	S	
	Understand call handling, escalation, and communication procedures and standards	R		S
	Study tools (application monitoring, source code control, defect tracking, ticketing, metrics gathering/reporting, etc.)	R		S
	Understand existing service levels (severity, response times, etc.)	R	S	



#	Activities	Responsibility		
		HTC	ORS / MDIT	Current Contractors
	Update/create any missing basic documentation	R		
2	Shadow Support			
	Onsite HTC resources follow incumbent team in analysis/resolution of support/maintenance requests	R		S
	Test all fixes and enhancements made by incumbent team	R		S
	Assist in User Acceptance Testing of fixes	R	S	
	Participate in problem, release, configuration, and change management and QA processes	R		S
	Validate knowledge acquired by presenting it back to SMEs and the incumbent support team	R	A	S
	Transfer of knowledge by the HTC account/transition team to other team members	R		
3	Reverse Shadow Support			
	Analyze, prioritize, and estimate support and maintenance requests with guidance from incumbent support team	R		S
	Perform simple enhancements and low-severity problem fixes	R		S
	Test and release code to production with approval from incumbent team	R		A
	Update documentation, problem ticketing system and knowledgebase	R		A
	Status Reporting (problem status updates and periodic reporting)	R	A	
4	Assess Readiness for Steady State			
	Assess quality and service levels achieved by HTC team	S	R	S
	Complete Transition Checklist	R	A	

Guidelines

- ❖ HTC Transition Project Manager will conduct regular and frequent status meetings to monitor progress of the transition activities. Communication protocols and escalation procedures will be established to achieve the knowledge transfer in a timely manner and minimize transition costs.

**Staffing Placements**

HTC will fill the requested classifications with Michigan individuals, by drawing first from their headquarters and development center in Troy, Michigan, and then from additional staff located at client sites in other locations around Michigan.

1.200 Roles and Responsibilities**1.201 Contractor Staff, Roles, and Responsibilities**

- Vendor(s) must provide services during normal working hours (Monday through Friday, 7:00 a.m. to 6:00 p.m.) and possible night and weekend hours depending on position and project requirements. No overtime will be paid unless authorized by MDIT Project Manager. All payment for additional hours worked will be at the stated hourly rates. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project. Contractor(s) shall observe the same standard holidays as State employees. The State does not compensate for holiday pay. Contractor(s) will not be reimbursed for travel expenses or travel time.

- Vendor(s) work is to be performed, completed, and managed at the following location:

General Office Building
7150 Harris Drive
Dimondale, Michigan 48821

- Vendor(s) must present certifications evidencing satisfactory Michigan State Police Background checks (ICHAT) and drug tests for all staff identified for assignment to this project. In addition, proposed Vendor(s) personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.
- Vendor(s) must respond fully to a service request with the following candidate information within five (5) days of issuance:
 - Three (3) resumes of qualified staff for each position MDIT has requested. The State may request more than 3 resumes/names, if necessary.
 - Date of availability for each candidate.
 - The results of two reference checks that the contractor(s) has performed on the proposed individual, including the names and telephone numbers of the references themselves. At least one of these reference checks must be from a supervisor.
 - Verification of a candidate's permission to work in the United States.
 - Rate for each resume submitted. Rates may not exceed the rates in the contract. However, the rates may be less, depending on the State's requirements, nature of the job market, and the candidate's abilities.
- Vendor(s) is required to provide a minimum of three resumes for 95% of requests within the required time frame of Five (5) days from time of issuance. If the vendor repeatedly fails to comply with this requirement, the State has the right to impose a monetary penalty of up to 1% of previous month's invoice total if this requirement is not met. By mutual agreement between the State and the contractor(s), complex requests may allow for a longer response time.
- Vendor(s) is required to meet the State's needs for staff augmentation services by providing qualified candidates for each service request for selection. If the vendor repeatedly submits candidates who are not qualified to perform the required services, the State may impose a penalty of up to 1% of the previous month's invoice total.



- Vendor(s) may request clarification regarding MDIT's request during the response period. If the contractor is unable to provide the personnel requested, the contractor must record this fact in a written response to the State.
 - Vendor(s) will be responsible for setting up all interviews between the candidates and MDIT/ORS management
 - Vendor(s) will provide a mechanism for expedited procurement of staff to meet a need for immediate replacement or for mission critical services.
 - Vendor(s) is responsible for the performance of selected staff and must provide for their performance evaluation.
 - Vendor(s) will ensure that the staff proposed for this assignment are fully trained and meet the skill set requirements of the job position being filled. The State makes changes to its technical architectures from time to time. If a contract individual is assigned to a State project or support area and the technology associated with their assignment changes, the vendor(s) are responsible for training in the new or changed technology (e.g., vendor personnel needs training in a particular tool in order to perform their State assignment.) or providing new resources who are trained in the new tool, at the State's discretion. Vendor(s) or the assigned contract staff may elect to pay for the training necessary to continue working on the assignment. The cost of the course, including any travel expenses, and the training hours will not be billable to the State.
 - Vendor(s) may not remove or reassign staff to other contracts unless mutually agreed upon by the State and the contractor(s). If staff is removed without compliance the State has the right to impose a monetary penalty of up to 1% of the previous month's invoice total.
- Vendor(s) is responsible for providing a 30 day written notice to the State in addition to a plan for transitioning to a new resource including knowledge transfer in the event an individual is terminated or voluntarily withdrawn from an assignment. For an individual whose employment is terminated, vendor will notify the State as soon as possible after the vendor becomes aware that the employment will be terminated and will provide a transition plan to a new resource including knowledge transfer. If circumstances allow overlap of the departing and replacement individual, the vendor will provide the replacement individual for up to one week of overlap time at no cost to the State.
- The State can request the vendor replace the individual with an individual of equal or greater qualifications.
 - Vendor(s) staff will be subject to the rules, regulations, and policies of MDIT and the Michigan Department of Civil Service.
 - Vendor(s) staff will be subject to MDIT and ORS rules for computer and Internet usage and will be required to sign an acceptable use agreement, as required of MDIT's and ORS's own employees.
 - Vendor(s) staff must attend ORS orientation, security awareness training and any other relevant security and/or confidentiality training. vendor(s) staff must sign any appropriate agreements or training certifications.
 - Vendor(s) staff assigned to work with restricted (a.k.a. sensitive) data have an obligation to safeguard and protect the confidentiality of such data. Further, if the staff member accidentally or purposefully releases restricted or sensitive data, the vendor assumes full responsibility for any resulting penalties, such as those described in the Identity Theft Protection Act (Act 452 P.A. 2004, amended July 2007).
 - Vendor(s) assumes full responsibility for the acts of all subcontractors.



- Vendor(s) may use subcontractors to fulfill requirements of the contract. If subcontractors are employed, vendor will pay subcontractors within 30 days of the Vendor's monthly invoice. Vendor and any subcontractor may agree to waive this provision.
- Vendor(s) will ensure that staff exhibits professional conduct and act in the best interest of the State.

Gary LaRoy will be the HTC Contract Administrator. The duties of the Contract Administrator shall include, but not be limited to:

- supporting the management of the Contract
- facilitating dispute resolution
- advising the State of performance under the terms and conditions of the Contract
- Managing contractor's subcontractors
- Serving as the single point of contact for all contract issues
- Assessing and reporting contract feedback and status
- Escalating contract issues, risks, and other concerns
- Managing and reporting on the contract budget

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

HTC's on-site team will be led by Account Manager Julie Rodriguez. Julie will ensure that the HTC team is meeting all of ORS/MDIT's expectations.

HTC's Senior Program Manager for Delivery and Transition Management, Nauzer Kapadia, will be the Transition Project Manager and will be stationed on-site as required for the duration of the transition.

HTC Contract Manager, Account Manager and Delivery and Transition Manager are at "no cost" to the State of Michigan for the duration of the contract.

The Vendor(s) will provide, and update when changed, an organizational chart indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work.

1.202 State Staff, Roles, And Responsibilities

- The State will provide the following resources for the Contractor's use: work space, minimal clerical support, desk, telephone, PC workstation, printer, and access to copiers and fax machine. This includes software licenses as appropriate.
- The State will follow an annual purchase order process (APOP) for all service request performed under this contract. A purchase order (PO) for one year at a time will be issued for all resources working under this contract.
- For new consultants, or the re-assignment of consultants, the State will submit a service request to the vendor(s) which provides the following information:
 - Details of the work to be performed
 - Project objectives
 - Technical environment for the work
 - Any specific expertise required
 - Location where the work is to be performed



- MDIT manager for the work
 - The requested number of personnel by IT classification,
 - Estimated start and end dates for the work
-
- The State will evaluate the resumes and references of submitted candidates. Selection will be based on a best value evaluation using the criteria identified in the request and the rate provided by the vendor(s)
 - The State reserves the right to refuse any or all individuals presented by the vendor(s).
 - The State will contact the vendor(s) to request an interview with the candidate. At the State's discretion, this initial interview may be conducted over the telephone. The State may attempt to pre-screen candidates over the phone. The State may, at its discretion, request a face-to-face interview. In this case, all expenses travel or otherwise, resulting from such a request shall be borne by the contractor(s) or the candidate.
 - After selecting the vendor(s), the State will notify the HTC account manager regarding its selection. Such notification will be made electronically and within seven (7) days of the time resumes are submitted to the State.
 - The State will notify vendor(s) in writing if a any resource is not performing at expected levels. The vendor(s) will be responsible for finding an acceptable replacement, or will reduce the hourly rate for the person to that of a non-senior resource, at the discretion of the State.
 - The State may discontinue the services of any vendor(s) -supplied staff with two weeks notice without cause at any time at "no cost" to the State for the duration of this contract..

The designated MDIT Project Manager is:

Michael Bilek, Agency Services
General Office Building, Secondary Complex
7150 Harris Drive
Dimondale, MI 48913
Phone (517) 636-4702
Fax (517) 636-0073
bilekm@michigan.gov

The MDIT Project Manager(s) duties shall include, but not be limited to:

- Provide State facilities, as needed
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Document and archive all important decisions
- Arrange, schedule and facilitate State staff attendance at all meetings.

1.203 Other Roles and Responsibilities - Reserved

1.300 Project Plan

1.301 Project Plan Management



Orientation Meeting

1. Within ten (10) calendar days from execution of the Contract, the Vendor(s) will be required to attend an orientation meeting to discuss the content and procedures of the Contract.
2. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Vendor(s)
3. The State shall bear no cost for the time and travel of the Vendor(s) for attendance at the meeting.

Performance Review Meetings

1. The State will require the Vendor(s) to attend monthly meetings, at a minimum, to review the Vendor's performance under the Contract. During the transition period these meeting will be conducted weekly.
2. The meetings will be held in Dimondale Michigan, or by teleconference, as mutually agreed by the State and the Vendor(s).
3. The State shall bear no cost for the time and travel of the Vendor(s) for attendance at the meeting.

1.302 Reports

Progress reporting for this contract will be performed both by the individual resource and by the Vendor in compliance with the annual purchase order process (APOP). The required reports are described below.

The **weekly status report** will include the following items for each project/system on which the resource has worked:

- Contractor name
- Project name
- Hours worked
- Milestones/deliverables completed
- Tasks accomplished
- Next steps
- Potential issues/risks

The monthly report of project hours shall include the following items for each project:

- Contractor name
- Dates covered
- Purchase order number
- Project/system name
- Service request number
- For each day on which the resource is submitting hours against a work authorization number:
 - Date on which work was performed
 - Task(s) performed – a brief description
 - Number of hours worked
- Total number of hours on this project for the month
- MDIT manager's name
- MDIT manager's signature

The monthly timesheet summary report shall include:

- Dates of the month covered (daily breakdown by project)
- Contractor name
- MDIT manager name
- Contract number
- P.O. number
- For each project on which the resource worked during the month:
 - Project name
 - Service Request
 - Number of hours worked on the project for each business day of the month



- Total number of hours worked on the project during the month
- Total number of hours being billed for the month
- MDIT project manager signature and date
- Contractor signature and date

MDIT Customer Satisfaction Meetings & Metrics Reporting

The vendor(s) contract administrator will meet face-to-face in Lansing, MI once a week (or frequency that MDIT prefers) with MDIT to ensure pro-active communication and reporting. In addition, Contractor will report the following key metrics:

- # of Resumes MDIT/ORS deemed to fail to meet acceptable qualifications
- # of Interviews MDIT/ORS requested
- # of Interviews that were scheduled and conducted
- # of Candidates Vendor(s) delivered to MDIT/ORS within Service Level timelines
- # of instances Vendor(s) could not deliver candidates selected by MDIT/ORS including reasons
- # of instances Vendor(s), at its own discretion, rotates consultant to outside positions
- # of instances MDIT/ORS terminates Vendor(s) consultant for unacceptable performance
- # of instances Vendor(s) resource requests project re-assignment and including reason for request
- # of instances Vendor(s) was able to offer resource below "not to exceed rate"
- Any additional metrics MDIT would like for Contractor to capture and report.

1.400 Project Management

1.401 Issue Management

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget.

The Vendor(s) shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

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

1.5 Acceptance - Reserved

1.600 Compensation and Payment

1.601 Compensation and Payment

Method of Payment

The "Not to Exceed" hourly rates will be the maximum hourly rate the State will pay for a resource in that classification. The "Not to Exceed" hourly rate incorporates any direct and indirect costs, ongoing fees, or one-time charges. The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc. Travel time will not be reimbursed.

IT Classification	"Not to Exceed" Hourly Rate
Senior System Analyst	\$67.00
Java Programmer Analyst	\$45.00



Technical Support Analyst	\$45.00
Scheduler – Batch	\$40.00
Project Manager	\$75.00
Project Coordinator	\$48.00
Configuration Manager	\$50.00
Technical Architect	\$90.00
Quality Assurance Test Analyst	\$45.00

HTC will provide the services of Nauzer Kapadia as Transition Manager at no charge. Nauzer will provide on-site support as needed throughout the transition period to ensure the success of the transition.

HTC Contract Manager, Account Manager, and Delivery and Transition Manager are at “no cost” to the State of Michigan for the duration of the contract.

For any new staff provided during the transition period, HTC will not bill for the first two weeks (up to 80 hours) of time worked on the contract.

Invoicing

Contractor(s) will submit properly itemized invoices to:

MDIT Procurement
Constitution Hall
525 W. Allegan
Lansing, MI 48913

Invoices shall provide and itemize, as applicable:

- Vendor name, address, and phone number
- Dates covered
- Contract number
- Purchase order number
- For each service request number against which work is being billed:
 - Work authorization number
 - Number of hours billed
 - Resource name(s)
- Total number of hours and dollars being billed by the contractor against the purchase order for the month
- Total dollars being billed by the vendor for the month

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

A timesheet will be submitted for each contractor, showing the number of hours worked each day, and the total number of hours worked each month.

Standard payment terms for the State are net 45 days from invoice receipt. The vendor may only invoice the State once a month for all resources.

1.602 Holdback - reserved



Article 1, Attachment A

IT Classification/Skill Sets

Senior Systems Analyst

- 5 years experience analyzing business requirements, generating project specifications, converting specifications into code, and applying knowledge of computer programming techniques and computer languages.
- 5 years experience developing technical designs in consultation with other technical experts.
- 5 years experience on one or more of the following development and design tools or equivalent;
 - ✓ IBM Rational Rose or SELECT Enterprise
 - ✓ ERWin
 - ✓ Serena Prototype Composer
 - ✓ Microsoft Visio
 - ✓ Rational Software Architect RSA (or WSAD 5.0 or higher)
 - ✓ Hyperion or Brio Reports (or SQL 2005 Reporting Tool)
 - ✓ Eclipse IDE
 - ✓ Perforce or CVS
- 5 years total development experience in one or more of the following languages:
 - ✓ Web Services
 - ✓ XML
 - ✓ J2EE/ Java 2.x, Struts/Spring Framework, EJB
 - ✓ JSP & Servlets
 - ✓ Hibernate
 - ✓ PowerScript
 - ✓ JavaScript
 - ✓ Active Directory or Tivoli, LDAP
- 5 years experience with at least one of the following web application servers:
 - ✓ IBM WebSphere
 - ✓ BEA Weblogic
- 5 years experience in RDBMS developing data model database triggers, procedures, packages and functions in a combination of any of the following:
 - ✓ Microsoft SQL Server
 - ✓ MySQL
- 5 years experience developing unit and system test plans, test data and scripts for application validation and verification.
- 5 years experience performing extensive analysis and design working on projects of all sizes that require exposure to all aspects of the project life cycle and creating and maintaining documentation in conformance with established standards.
- 5 years experience working with application/solution architects to set direction of design and development for application development projects.
- 5 years experience evaluating user requests for new programs or modified program components to determine feasibility, cost and time required, compatibility with current systems, and computer capabilities.
- 5 years experience performing peer reviews of developed code to insure conformity to standards and design best practices.
- 5 years experience reviewing technical designs and specifications for completeness and conformance to quality standards, especially as a mentor to less experienced developers.
- 5 years experience analyzing business requirements, generating project specifications and converting them into code, and applying knowledge of computer programming techniques and computer languages.
- 5 years experience working with System Development Life Cycle (SDLC) concepts
- 5 years experience conducting system test
- 2 years experience in verbal and written communication with clients in English



- Experience working with mature CMM or CMMI project methodologies
- Experience working with MS Office applications
- Experience working with project management tools such as MS Project or NIKU
- Experience working in a team environment
- Experience in troubleshooting, problem solving and debugging.
- Ability to work under pressure and in tight dead lines.
- Experience in Clarity or Retirement System Application is an added advantage.

Java Programmer Analyst

- 3 years experience analyzing business requirements, generating project specifications and converting them into code, and applying knowledge of computer programming techniques and computer languages.
- 3 years experience developing technical designs in consultation with other technical experts.
- 3 year experience on one or more of the following development and design tools:
 - ✓ IBM Rational Rose or SELECT Enterprise
 - ✓ Serena Prototype Composer
 - ✓ ERWin
 - ✓ Microsoft Visio
 - ✓ Rational Software Architect RSA (or WSAD 5.0 or higher)
 - ✓ Hyperion or Crystal Reports (or SQL 2005 Reporting Tool)
 - ✓ Eclipse IDE
 - ✓ Perforce or CVS
- 3 years total development experience in one or more of the following languages:
 - ✓ J2EE/ Java 2.x, Struts/Spring Frame work, EJB
 - ✓ JSP and Servelets
 - ✓ Hibernate
 - ✓ PowerScript
 - ✓ Web Services
 - ✓ JavaScript
 - ✓ XML
 - ✓ Active Directory, or Tivoli, LDAP
- 3 years experience with IBM WebSphere and/or BEA Weblogic web application servers
- 3 years experience in RDBMS developing Data model Database triggers, procedures, packages and functions in a combination of any of the following:
 - ✓ Microsoft SQL Server
 - ✓ MySQL
- 3 years experience developing and following unit test plans, test data, and scripts for application validation and verification.
- 3 years experience performing extensive analysis and design by working on projects of all sizes that require exposure to all aspects of the project life cycle and creating and maintaining documentation in conformance with established standards.
- 3 years experience working with application/solution architects to set direction of design and development for application development projects.
- 3 years experience evaluating user requests for new programs or modified program components to determine feasibility, cost and time required, compatibility with current systems, and computer capabilities.
- 3 years experience developing solutions, following design documents and use cases
- 3 years conducting unit test
- 3 years experience performing peer reviews of developed code to insure conformity to standards and design best practices.
- 3 years experience reviewing technical designs and specifications for completeness and conformance to quality standards.
- 3 years experience working with System Development Life Cycle (SDLC) concepts



- 2 years experience in verbal and written communication with clients in English
- Experience working with mature CMM or CMMI project methodologies
- Experience working with MS Office applications
- Experience working with project management tools such as MS Project or NIKU
- Experience working in a team environment
- Experience in trouble shooting, problem solving and debugging
- Ability to work under pressure and tight deadline

Technical Support Analyst

- 3 years experience in the administration of WebSphere, FileNet and IIS web services.
- Understanding of the fundamentals of various hardware components in a server based environment (servers, switches, routers, SAN, NAS) and communication protocols.
- 3 years experience with web based technology including LDAP.
- 3 years experience with Microsoft SQL Database administration, Vinzant ECS/GECS, and Hyperion SQR.
- Experience in Java
- Experience in one or both of the following: ASP and VB.
- Experience in logical program and system design, project management methodology and change management methodology is desirable.
- Ability to read, comprehend, and write technical documents related to the above technologies.
- 2 years experience in verbal and written communication with clients in English
- Experience working with mature CMM or CMMI project methodologies
- Experience working with MS Office applications
- Experience working with project management tools such as MS Project or NIKU
- Experience working in a team environment

Scheduler – Batch

- 1-3 years experience in the administration of WebSphere, FileNet and IIS web services.
- 1-3 years experience Vinzant GECS, ECS, or a scheduling tool.
- 1-3 years experience in Microsoft SQL Server
- 1-3 years Experience with web based technology including LDAP
- Experience working with MS Office applications
- Experience working with project management tools such as MS Project or NIKU
- Experience in logical program and system design, project management methodology and change management methodology is desirable.

Project Manager

- 3-5 years experience in project management skills utilizing formal methodologies, including change management, risk identification/mitigation, issue escalation and status reporting.
- 3-5 years experience with project managing IT Web projects that require infrastructure
- 3-5 years experience with project management tools, NIKU Workbench, MS Project Tracker
- PMP certification
- Experience with CMM project methodologies
- Considerable knowledge of structured programming methodology and techniques.
- Experience with development projects in a J2EE, SQL, Websphere environment
- Experience with Windows platforms
- Ability to effectively make oral and written reports and presentations and prepare clear and concise metrics graphs and charts.
- Ability to maintain records, prepare reports and conduct correspondence related to the work.
- Ability to communicate technical terminology at a level appropriate to the audience.

**Project Coordinator (Departmental Technician)**

- 3-5 years experience coordinating, planning and tracking projects.
- 3-5 years experience with project management tools,
- 3-5 years experience with formal project management methodologies.
- 3-5 years experience with Software Development Life Cycle, SDLC
- Ability to recommend, design and prepare policy materials, operations manuals, and supporting instructions in program/ project management.
- Ability to develop and/or deliver training.
- Ability to manage multiple priorities and meet deadlines working in a collaborative working environment.
- High proficiency using Microsoft Project, Word, Excel and Access.
- Ability to evaluate, assess, plan, develop, and implement programs or services.
- Ability to communicate effectively, (including facilitation) utilizing multiple media.
- Ability to maintain and support of the team's use of a number of tools.
- Demonstrated ability to develop processes, procedures, reports, timelines, goals and objectives.
- Demonstrated track record of working independently as well as in teams.

Configuration Management

- 3-5 years of experience with Software Configuration Management tools like Perforce tool, Rational Tools, Mercury Tools
- 3-5 years of experience with Java programming language and object oriented development concepts
- 3-5 years of experience with the structure of Web applications and HTML, particularly as they are implemented with J2EE architecture.
- 3-5 years of experience with relational databases design concepts and ability to read database model diagrams
- 3-5 years of experience with imaging and/or workflow applications (i.e. FileNet)
- Ability to organize and manage large quantities of detailed information
- Ability to write clear and concise technical documents which can be understood by both technical audiences (e.g. developers) and business clients
- Must be able to research problems independently, break down complex problems and resolve them efficiently.
- Good written and verbal communications.
- Ability to work independently and in a team environment
- Ability to resolve technical and business problems under pressure and manage multiple responsibilities.
- Ability to read and understand complex written software requirements at a detailed level
- Ability to use MS Excel including advanced features for data import/export, sorting, and table creation

Technical Architect

- 3-5 years experience in the administration of WebSphere, FileNet and IIS web services
- 3-5 years experience with various hardware components in a server based environment (servers, switches, routers, SAN, NAS) and communication protocols
- 3-5 years experience with web based technology including LDAP
- 3-5 years experience in the Microsoft SQL Database administration, Vinzant ECS/GECS, and Hyperion SQR.
- 3-5 years experience in Java
- 3-5 years experience in logical program and system design; project management methodology and change management methodology are desirable
- Ability to read, comprehend, and write technical documents related to the above technologies
- Utilization of standard design tools, diagramming and documentation processes
- Ability to work under pressure and tight timelines
- Good oral and written communication skills

**QA/Test Analyst**

- Prior experience and established competence in established guidelines utilize the advanced features of the HP Quicktest Pro and Quality Center tool set.
- Prior experience and established competence in established guidelines utilize the advanced features of QA/Load for load and performance testing.
- Prior experience and established competence in developing, managing and executing regression, smoke, load and performance tests
- Prior experience and established competence developing small programs with VB Script or similar programming language
- Prior experience creating basic to moderate complexity SQL queries that extract information from existing databases
- Ability to read and understand complex written software requirements at a detailed level
- Ability to read and understand the major types of UML requirements analysis diagrams (e.g. Use Cases, State Diagrams, Activity Diagrams)
- Ability to use MS Excel including advanced features for data import/export, sorting, and table creation
- Basic understanding of the Java programming language and object oriented development concepts and ability to read UML class diagrams.
- Basic understanding of the structure of Web applications, particularly as they are implemented with a J2EE architecture.
- Basic understanding of relational databases design concepts and ability to read database model diagrams
- Ability to organize and manage large quantities of detailed information
- Ability to write clear and concise technical documents which can be understood by both technical audiences (e.g. developers) and business clients
- Experience with various hardware components (servers, switches, routers, SAN's, etc.) and communications protocols.
- Experience with imaging and/or workflow applications (i.e. FileNet)



Article 1, Attachment B

IT Classification/Tasks

Senior Systems Analyst

- Analyze business requirements, generate project specifications, and convert specifications into code, and develop technical designs in consultation with other technical experts
- Code Solutions following technical design and apply knowledge of computer programming techniques and computer languages.
- Develop unit test plans, test data and scripts for application validation and verification.
- Perform extensive analysis and design working on projects of all sizes that require exposure to all aspects of the project life cycle and creating and maintaining documentation in conformance with established standards.
- Work with application/solution architects/java programmer analyst to set direction of design and development for application development projects.
- Evaluate user requests for new programs or modified program components to determine feasibility, cost and time required, compatibility with current systems, and computer capabilities.
- Perform peer reviews of developed solutions and code to insure conformity to standards and design best practices.
- Review technical designs and specifications for completeness and conformance to quality standards, especially as a mentor to less experienced developers.

Java Programmer Analyst

- Code Solutions following technical design and apply knowledge of computer programming techniques and computer languages.
- Analyze business requirements, generate project specifications, and convert specifications into code and develop technical designs in consultation with other technical experts
- Code Solutions following technical design and apply knowledge of computer programming techniques and computer languages.
- Develop unit test plans, test data and scripts for application validation and verification.
- Perform extensive analysis and design working on projects of all sizes that require exposure to all aspects of the project life cycle and creating and maintaining documentation in conformance with established standards.
- Work with senior system analyst architects to set direction of design and development for application development projects.
- Evaluate user requests for new programs or modified program components to determine feasibility, cost and time required, compatibility with current systems, and computer capabilities.
- Perform peer reviews of developed code to insure conformity to standards and design best practices.
- Review technical designs and specifications for completeness and conformance to quality standards, especially as a mentor to less experienced developers.
- Analyze business requirements, generate project specifications and convert them into code, and apply knowledge of computer programming techniques and computer languages

Technical Support Analyst

- Support and maintain user account information (rights, security, and system groups) for the agency's test environment
- Develop, maintain and upgrade automated test scripts and architectures for application products
- Document testing status
- Write test documentation, including test plans, test defects, and defect logs
- Execute and analyze test cases and perform exploratory testing
- Analyze test outcomes and provide regular progress reports



- Maintain Test database with updates to insure proper and consistent Data is available for testing and development.
- Install, configuring, and maintaining IBM WebSphere application server, FileNet imaging & workflow components, Vinzant ECS/GECS batch scheduler, Hyperion SQR reporting, MS SQL database, IIS web services, and other 3rd party applications.
- Configuration management of multiple development environments,
- Provide definition of support processes, technical documentation, 3rd party SW upgrade management.
- Define\maintain appropriate processes for the AST's Infrastructure and Operations Support Services.
- Suggest areas where process improvements and quality controls could be implemented, designed and documented.
- Create\maintain clear and usable documentation for technical support activities performed by AST

Scheduler – Batch

- Determine most efficient methods to correct any job aborts, timing of job reruns, placing of appropriate checkpoints, and the rollback/recovery needs to support the production processing
- Troubleshoot and coordinate technical support needs of the State's ORS Vision system in the production environment should malfunctions occur: Windows NT/2000/2003, IBM Websphere, IIS and Microsoft SQL database and hardware components: servers, switches, routers, SAN's and communications protocols.
- Develop and implement programs/processes that will automate event notification. Make changes to automated schedules as needed.
- When recurring incidents or patterns occur with job runs, analyze and determine appropriate action to correct system and/or design errors and determine correct problem resolution.
- Monitor priorities and processor utilizations and resolve conflicts in rules that determine job priority.
- Plan, implement and maintain the productional month-end, year-end, and on-demand schedules.
- When changes or modifications are made to scheduling operations/flows, identify impacts of system and batch job changes on other interfaced systems.
- Write and maintain documentation and procedures used in the work area for scheduling operations and for correcting incidents.

Project Manager

- Define and develop integrated project plans for all aspects of ORS projects including scope, time, cost, communication, risk, procurement, quality and human resource areas, to meet the project goals and objectives.
- Coordinate and direct the project team and the project team's activities to deliver on-time, on-budget projects that meet customer requirements.
- Practice Change Management, maintaining project scope and manage project changes to ensure changes are beneficial to the project and that the quality of the IT product meets customer requirements.
- Apply configuration management and quality assurance techniques to assure correctness and completeness of project deliverables, including all project related documentation.
- Communicate and coordinate with business clients, team members, external DIT partners, vendors to meet project goals and objectives.
- Assure project and product deliverable quality by adhering to standards, maintaining change control, providing quality control measurements, participating in quality audits and managing work results acceptance, including acceptance of vendor deliverables.
- Provide project management products, i.e., information, status reports, presentations, etc., as required to business clients, team members and others.



- Provide leadership to the project team, including development of team member roles and responsibilities, development of team members' technical abilities where appropriate, and evaluation of team members' performance.
- Manage the introduction of the project's product into implementation and provide support for transition into maintenance.
- Manage and coordinate project close-out activities, including post-project implementation review, financial close-out, contract close-out, records retention, etc.

Project Coordinator

- Prepares and distributes routine and ad-hoc data or reports, as well as monthly Service Level Agreement (SLA) performance and project dashboard reports for distribution to MDIT management, executives and business partners.
- Provides management, department and business users with data and reports for use in the analysis of PIR requirements and status, sub-team planning and actual performance versus plans.
- Provide assistance to management in program, project and budget documentation preparation and reporting, as well as procedure and process documentation and administration.
- Assist Section Manager in the analysis of on-going program/project operations through the timely and accurate preparation of data and reports, and document of program/project policies and procedures.
- Assist Section Manager with the preparation of SUITE documentation and conduct SUITE related meetings.
- Help train Department members and business partners on team tools, policies, procedures, and standards, and helps direct the activities of student interns who serves in a supportive role in this area.
- Maintains familiarity with and uses tools as NIKU, ACCESS, and MS Project to extract and report data.
- Update and maintain project data as directed.
- Assist Section Manager in completing appropriate project control documents using the State of Michigan Project Management Methodology.
- Research and collect data necessary to prepare for project team meetings, meet project reporting and evaluation requirements.
- Prepares project plan updates, and resource trend analysis and control including analysis, research, development, escalation and maintenance of project data and status.
- Gather documentation to present to management.
- Prepares reports, agendas and various correspondences for the Section Manager.
- Attend project meetings to act as recorder for follow-up on action items and to distribute summary meeting notes to participants.

Configuration Manager

- Enforce practices to identify and store configuration items in a secure repository.
- Assist in setting up and maintaining the development environment by creating repositories, setting up the product directory structure, and importing any existing files.
- Install and configure various Configuration Management tools.
- Create and maintain the product directory structure for an initial baseline of versioned project configuration items.
- Enforce the baseline promotion levels to ensure that all configuration items stored in the project repository share a common set of legal promotion levels.
- Serve as Configuration Management Analyst for systems.
- Enforce Configuration Status Reporting requirements.
- Enforce Configuration Audit requirements.
- Assist in the organizing of application test requirements, plans, documentation, scripts, and results for easy accessibility and reusability.



- Assist ORS projects in defining their test needs and schedules.
- Support and enforce the change management process.
- Support users with the operation of all IT testing tools in use by ORS.
- Support testing processes consistent with the System Development Life Cycle (SDLC).
- Maintain, support, and upgrade the testing environment of ORS.

Technical Architect

- Provide technical architecture experience IT project business and technical requirement sessions.
- Develop strategic goals required to insure architecture is in compliance with the MDIT Strategic Plan.
- Consult with system designers on proper system design and use of enterprise architecture components.
- Compile or design hardware and software architectural models of current and proposed systems across the client enterprise for use internally and in conjunction with third party technology partners.
- Perform design reviews for the ORS organization.
- Lead the evaluation of vendor software targeted for possible integration into the systems or environment, including strategic applications, tools, and utilities.
- Define, implement and maintain the IT design methodology and best practices.
- Survey external emerging developments, and evangelize new technologies, standards and methodologies that will have a positive impact on the quality of ORS systems and services.
- Insure the implementation of security standards in system architectures and designs. Be familiar with, provide research, documentation and input (when applicable) to Enterprise Security standards.
- Provide technical leadership, guidance and direction to Programmer/Analysts supporting related Web system design functions for ORS.
- Plan, develop and administer design related policies and procedures to promote high quality, accuracy and usable system designs.
- Perform business and technical requirements analysis for ORS enterprise level components and objects.
- Oversee the design, development and testing of ORS enterprise level components, APIs and related databases.
- Oversee and approve the development and changes to the software framework(s) to insure proper execution of the design.
- Provide technical support to application designers in the use of the framework(s) within their systems.
- Chair appropriate change control boards.
- Oversee the development of testing plans, scenarios and test data.
- Manage versions using the established configuration management process and tools.
- Manage associated projects to develop ORS enterprise level components and objects.
- Act as the ORS IT Architect on statewide and enterprise application integration projects.

Quality Assurance Test Analyst

- Develop test scripts that will realize the goals of Test Plans previously created by System Developers.
- Ensure design is accurately and adequately reflected in test plans.
- Ensure test scripts reflect ORS Vision basic business activities, online navigation and use of the system, data requirements, and high level process flows.
- Work with functional areas to develop test plans and coordinate with functional staff for testing.
- Develop advanced automated test programs using the Mercury Interactive Quicktest Pro tool.
- Create test scripts that capture data entered on screens and input through spreadsheets.
- Modify scripts to handle non-standard conditions.
- Validate the completeness and accuracy of tests.
- Add test scripts to Mercury Test Director and then use Test Director to schedule tests and monitor results.
- Create reusable test data based on written test plans and test script needs.
- Create test data that will be usable within Quicktest Pro and be easily modifiable.



- Identify and create supporting test data that is needed to meet data validation requirements and business rules that are not explicitly mentioned in the test plan.
- Make data updates, based on a thorough understanding of the purpose and details behind previously created test data.
- Use Mercury Test Director and Rational Requisite Pro to develop end-to-end links between original application requirements and the tests that validate them.
- Appropriately establish linkage to the members of the test library, based on an understanding of the core concepts behind the system requirements.
- Identify areas that do not have adequate test coverage, devise and execute remedial test scripts.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of three years beginning May 2009 through May 2012. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.130**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Renewal(s)

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

2.003 Legal Effect

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order or Blanket Purchase Order's accompanying Statement of Work.

2.006 Order of Precedence

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

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

2.007 Headings

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

**2.008 Form, Function & Utility**

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

2.009 Reformation and Severability

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

2.010 Consents and Approvals

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

2.011 No Waiver of Default

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

2.012 Survival

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

2.020 Contract Administration**2.021 Issuing Office**

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

Jacque Kuch, Buyer
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
kuchj@michigan.gov
517-241-0239

2.022 Contract Compliance Inspector

The Director of Purchasing Operations directs the person named below, or his or her designee, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. **Monitoring Contract activities does not imply the authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract. Purchasing Operations is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.**

**The Contract Compliance Inspector for this Contract is:**

Mark Lawrence
Michigan Department of Information Technology
Constitution Hall, 1st Floor
525 W. Allegan Street
Lansing, Michigan 48913
Phone (517) 241-1640
Fax (517) 241-8852
lawrencem@michigan.gov

2.23 MDIT Project Manager**The following individual will oversee the project:**

Michael Bilek
Agency Services
General Office Building, Secondary Complex
7150 Harris Drive
Dimondale, MI 48913
Phone (517) 636-4702
Fax (517) 636-0073
bilekm@michigan.gov

2.024 Change Requests

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

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

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

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

(1) Change Request at State Request

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").



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

2.025 Notices

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

State:

Jacque Kuch, Buyer
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
kuchj@michigan.gov
517-241-0239

Contractor:

HTC Global Systems
Sutbir Randhawa
3270 W Big Beaver Rd.
Troy, MI 48084

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

2.026 Binding Commitments

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

**2.027 Relationship of the Parties**

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

2.028 Covenant of Good Faith

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

2.029 Assignments

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

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

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

2.030 General Provisions**2.031 Media Releases**

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

2.032 Contract Distribution

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

2.033 Permits

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

**2.034 Website Incorporation**

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

2.035 Future Bidding Preclusion

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

2.036 Freedom of Information

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

2.037 Disaster Recovery

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

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

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

2.042 Adjustments for Reductions in Scope of Services/Deliverables

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

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General**Contract Payment Schedule****1. Contractor request for performance-based payment.**

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

2. Approval and payment of requests.

The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested.



The Contract Administrator shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contract Administrator may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion, which has been or is represented as being payable.

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

The approval by the Contract Administrator of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this Contract.

2.045 Pro-ration

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

2.046 Antitrust Assignment

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

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

2.050 Taxes

2.051 Employment Taxes

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

2.052 Sales and Use Taxes

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



2.060 Contract Management

2.061 Contractor Personnel Qualifications

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

2.062 Contractor Key Personnel

- (a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.
- (e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

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

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

2.064 Contractor Personnel Location

All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at



a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.065 Contractor Identification

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

2.066 Cooperation with Third Parties

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

2.067 Contract Management Responsibilities

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

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

2.068 Contractor Return of State Equipment/Resources

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

2.070 Subcontracting by Contractor

2.071 Contractor full Responsibility

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

2.072 State Consent to delegation

Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor



cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

2.073 Subcontractor bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment

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

2.082 Facilities

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

2.090 Security

2.091 Background Checks

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to



complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

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

2.092 Security Breach Notification

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

2.093 PCI DATA Security Requirements

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

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

The Contractor will contact the Office or Retirement Services immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor agrees the Payment Card Industry representative, or a Payment Card Industry approved third party, will be provided with full cooperation and access to conduct a thorough security review. The review will validate compliance with the Payment Card Industry Data Security Standard for protecting cardholder data. Contractor agrees to properly dispose sensitive cardholder data when no longer needed. The Contractor will continue to treat cardholder data as confidential upon contract termination.

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

2.100 Confidentiality

2.101 Confidentiality

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



2.102 Protection and Destruction of Confidential Information

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

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

2.103 Exclusions

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

2.104 No Implied Rights

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

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

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

**2.112 Examination of Records**

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

2.113 Retention of Records

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

2.114 Audit Resolution

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

2.115 Errors

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

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

2.120 Warranties**2.121 Warranties and Representations - Reserved****2.122 Warranty of Merchantability - Reserved****2.123 Warranty of Fitness for a Particular Purpose- Reserved****2.124 Warranty of Title- Reserved****2.125 Equipment Warranty- Reserved****2.126 Equipment to be New - Reserved****2.127 Prohibited Products - Reserved****2.128 Consequences for Breach - Reserved**



2.130 Insurance

2.131 Liability Insurance

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

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

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

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

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

See www.michigan.gov/dleg.

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

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

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

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

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

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

- ☒ 3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile.



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

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

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

- ☒ 4. Employers liability insurance with the following minimum limits:
\$100,000 each accident
\$100,000 each employee by disease
\$500,000 aggregate disease
- ☐ 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).
- ☐ 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
- ☐ 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
- ☐ 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.

2.132 Subcontractor Insurance Coverage

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

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **The Contract Number or the Purchase Order Number must be shown on the Certificate Of Insurance To Assure Correct Filing.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The



notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insured under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.140 Indemnification

2.141 General Indemnification

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

2.142 Code Indemnification

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

2.143 Employee Indemnification

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

2.144 Patent/Copyright Infringement Indemnification

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



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

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

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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

- (a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.
- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.



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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

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

2.152 Termination for Cause

- (a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State
- (b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.
- (c) If the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.
- (d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

2.153 Termination for Convenience

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

2.154 Termination for Non-Appropriation

- (a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect



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

- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.155 Termination for Criminal Conviction

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

2.156 Termination for Approvals Rescinded

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

2.157 Rights and Obligations upon Termination

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



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

2.158 Reservation of Rights

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

2.160 Termination by Contractor

2.161 Termination by Contractor

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

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

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

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

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

**2.174 Contractor Software Transition**

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

2.175 Transition Payments

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

2.176 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to reconcile all accounts between the State and the Contractor, complete any pending post-project reviews and perform any others obligations upon which the State and the Contractor agree.

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

2.180 Stop Work**2.181 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.130**.

2.182 Cancellation or Expiration of Stop Work Order

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

2.183 Allowance of Contractor Costs

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



2.190 Dispute Resolution

2.191 In General

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

2.192 Informal Dispute Resolution

- (a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:
 - (1) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
 - (2) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
 - (3) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
 - (4) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.
- (b) This Section will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.
- (c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

2.193 Injunctive Relief

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

2.194 Continued Performance

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



2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

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

2.202 Unfair Labor Practices

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

2.203 Workplace Safety and Discriminatory Harassment

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

2.210 Governing Law

2.211 Governing Law

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

2.212 Compliance with Laws

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

2.213 Jurisdiction

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

2.220 Limitation of Liability

2.221 Limitation of Liability

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific



provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

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

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

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

2.232 Call Center Disclosure

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

**2.233 Bankruptcy**

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

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

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

2.240 Performance**2.241 Time of Performance**

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

2.242 Service Level Agreement (SLA)

- (a) SLAs will be completed with the following operational considerations:
 - (1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
 - (2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
 - (3) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
 - (4) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
 - (i) Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
 - (ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.
- (b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the



chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.

- (c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.
- (d) All decimals must be rounded to two decimal places with five and greater rounding up and four and less rounding down unless otherwise specified.

2.243 Liquidated Damages

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.141**, the State is entitled to collect liquidated damages in the amount of \$5,000.00 and an additional \$100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Unauthorized Removal of any Key Personnel

It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.141**, the State may assess liquidated damages against Contractor as specified below.

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

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

2.244 Excusable Failure

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

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



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

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

2.250 Approval of Deliverables

2.251 Delivery of Deliverables

A list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or a Custom Software Deliverable is attached, if applicable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute's Capability Maturity Model for Software ("CMM Level 3") or its equivalent.

2.252 Contractor System Testing

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor's development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor's System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor's system development methodology:

Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected



growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor's System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State's computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor's test plan for Business Function Testing.

Within five (5) Business Days following the completion of System Testing pursuant to this **Section**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

2.253 Approval of Deliverables, In General

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with this Section.

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the



State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

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

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

2.254 Process for Approval of Written Deliverables

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

2.255 Process for Approval of Custom Software Deliverables

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor shall provide to the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in an attachment, the State Review Period for conducting UAT will be as indicated in the attachment. For any other Custom Software Deliverables not listed in an attachment, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by this **Section** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.



The State's UAT will consist of executing test scripts from the proposed testing submitted by Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State's UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section**.

2.256 Final Acceptance

"Final Acceptance" shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

2.260 Ownership

2.261 Ownership of Work Product by State

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

2.262 Vesting of Rights

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

2.263 Rights in Data

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

The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the



Contractor's data. Without limiting the generality of this Section, the State may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

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

2.272 Acceptable Use Policy

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

2.273 Systems Changes

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

2.280 Extended Purchasing

2.281 MiDEAL (Michigan Delivery Extended Agreements Locally

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

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

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

**2.282 State Employee Purchases - Reserved****2.290 Environmental Provision****2.291 Environmental Provision - Reserved****2.300 Deliverables****2.301 Software - Reserved****2.302 Hardware - Reserved****2.303 Equipment to be New- Reserved****2.304 Equipment to be New and Prohibited Products - Reserved****2.310 Software Warranties****2.311 Performance Warranty - Reserved****2.312 No Surreptitious Code Warranty - Reserved****2.313 Calendar Warranty - Reserved****2.314 Third-party Software Warranty - Reserved****2.315 Physical Media Warranty - Reserved****2.320 Software Licensing****2.321 Cross-License, Deliverables Only, License to Contractor - Reserved****2.322 Cross-License, Deliverables and Derivative Work, License to Contractor - Reserved****2.323 License Back to the State - Reserved****2.324 License Retained by Contractor - Reserved****2.235 Pre-existing Materials for Custom Software Deliverables - Reserved****2.330 Source Code Escrow****2.331 Definition**

“Source Code Escrow Package” shall mean:

- (a) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
- (b) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
- (c) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

**2.332 Delivery of Source Code into Escrow**

Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within (30) thirty days of the execution of this Contract.

2.333 Delivery of New Source Code into Escrow

If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

2.334 Verification

The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

2.335 Escrow Fees

The Contractor will pay all fees and expenses charged by the Escrow Agent.

2.336 Release Events

The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:

- (a) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
- (b) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
- (c) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

2.337 Release Event Procedures

If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in this **Section**, then:

- (a) The State shall comply with all procedures in the Escrow Contract;
- (b) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
- (c) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

2.338 License

Upon release from the Escrow Agent pursuant to an event described in this **Section**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

2.339 Derivative Works

Any Derivative Works to the source code released from escrow that are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.