



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

CONTRACT CHANGE NOTICE

Change Notice Number **5**

to

Contract Number **071B1300355**

CONTRACTOR	FIRST DATABANK, INC.
	701 Gateway Blvd., STE 600
	South San Francisco, CA 94080
	Tina Holmes
	800-428-4495
	tholmes@fdbhealth.com
	CV0051021

Program Manager	John Moore	MDHHS
	517-331-5065	
	Moorej7@michigan.gov	
Contract Administrator	Jennifer May	DTMB
	517-242-6664	
	mayj7@michigan.gov	

CONTRACT SUMMARY

DATA, UPDATES AND ONGOING SUPPORT FOR NATIONAL DRU

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 1, 2010	September 30, 2015	5 - 1 Year	September 30, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>	5 Years	September 30, 2025
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$957,547.00	\$584,931.00	\$1,542,478.00		

DESCRIPTION

Effective 10/1/2020, this contract is extended for 5 years and is increased by \$584,931.00. The revised contract expiration date is 9/30/2025.

The following Service Level Agreement is hereby added to this Change Notice:

FDB's Licensed Solutions are made available to Licensee on a weekly basis and will be made available no later than Monday at 9 am CST via FDB's secure website. Licensee will be provided a unique user name and password as well as having the incoming IP address whitelisted with FDB. FDB will also provide standard customer support services via FDB's customer support toll-free number (1-800-633-3453) during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday) excluding any FDB observed holidays, via e-mail at cs@fdbhealth.com, or via the Support Link at FDB's website at www.fdbhealth.com. In the event there are any errors in delivery or access, FDB will redeliver the Licensed Solutions to Licensee at no additional fees or charges.

Due to the use of Federal funds, the Federal Addendum, including the Byrd Anti-lobbying Certification, is also hereby added to this change notice

Please note the contract administrator has been changed to Jennifer May.

All other terms, conditions, and specifications remain the same. Per DTMB contractor (request/proposal) and agency (request) agreement, DTMB Procurement approval, and State Administrative Board Approval on 9/24/2020.

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
DTMB	John Moore	517-331-5065	MooreJ7@michigan.gov
DHHS	Karen Scott	517-284-1239	ScottK8@michgian.gov



**MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET
IT SERVICES
STATEMENT OF WORK FOR IT CHANGE NOTICES**

Project Title: First Databank ULE	Period of Coverage: 10/1/2020-9/30/2025
Requesting Department: MDHHS	Date: 8/28/2020
Agency Project Manager: Karen Scott	Phone: 517-284-1239
DTMB Project Manager: John Moore	Phone: 517-331-5065

Brief Description of Services to be provided:

BACKGROUND:

First Databank provides the State a drug pricing database that includes information for most drugs, bulk chemicals, herbals, nutritional supplements, prescription and non-prescription products, and some medical devices commonly dispensed by the pharmacy. First Databank is critical to business functions within Michigan Department of Health and Human Services (MDHHS) and tied to federal mandates and state policy/programs.

Purpose:

The purpose of this Contract Change Notice is to extend Master Agreement 071B1300355 to ensure the existing systems remain functional for the Medicaid Division within the Michigan Department of Health and Human Services (MDHHS), through the renewal of licensing for the following:

- **NATIONAL DRUG DATA FILE™ (NDDF)**
- **DRUG-DISEASE CONTRAINDICATION MODULE™**
- **INDICATIONS MODULE™**
- **MIN/MAX DOSE MODULES™**
- **MEDICAID MODULE**

Exhibit A

Pricing

Proposed 5-Year License Fees

Annual Fees:	Year 1	Year 2	Year 3	Year 4	Year 5
Up to 2 million claims per month:	\$100,016	\$103,512	\$107,132	\$110,881	\$114,762
Medicaid Module:	\$9,068	\$9,386	\$9,714	\$10,054	\$10,406

Annual License Fees will be assessed based on the average number of Medicaid claims processed per month for the preceding twelve (12) month period, such number to be updated annually as the basis for fee assessment. A processed claim shall be counted at the point during a transaction when a decision is made to pay or deny a claim.

Federal Provisions Addendum

This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. Equal Employment Opportunity

If this Contract is a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant

thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. Davis-Bacon Act (Prevailing Wage)

If this Contract is a **prime construction contracts** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- (1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- (2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (3) Additionally, contractors are required to pay wages not less than once a week.

3. Copeland "Anti-Kickback" Act

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti-Kickback" Act ([40 USC 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- (1) Contractor. The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

4. Contract Work Hours and Safety Standards Act

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- (1) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation

of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) Withholding for unpaid wages and liquidated damages. The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. Rights to Inventions Made Under a Contract or Agreement

If the Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6. Clean Air Act and the Federal Water Pollution Control Act

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

Clean Air Act

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

Federal Water Pollution Control Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

7. Debarment and Suspension

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549 \(51 FR 6370; February 21, 1986\)](#) and [12689 \(54 FR 34131; August 18, 1989\)](#), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- (1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in Exhibit 1 – Byrd Anti-Lobbying Certification below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of

Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

9. Procurement of Recovered Materials

Under [2 CFR 200.322](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

10. Additional FEMA Contract Provisions.

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

- (1) Access to Records. The following access to records requirements apply to this contract:
 - a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - d. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) Changes.

See the provisions regarding modifications or change notice in the Contract Terms.

(3) DHS Seal, Logo, And Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(4) Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(5) No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

(6) Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

Exhibit 1 - Byrd Anti-Lobbying Certification

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, First Databank, Inc, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date



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

CONTRACT CHANGE NOTICE

Change Notice Number **4**
to
Contract Number **071B1300355**

CONTRACTOR	First Databank Inc.
	701 Gateway Blvd., STE 600
	South San Francisco, CA 94080
	Tina Holmes
	800-428-4495
	tholmes@fdbhealth.com
	CV0051021

STATE	Program Manager	Andrew Mason	MDHHS
		517-898-6815	
		MasonA5@michigan.gov	
STATE	Contract Administrator	Jarrod Barron	DTMB
		(517) 249-0406	
		barronj1@michigan.gov	

CONTRACT SUMMARY

DATA, UPDATES AND ONGOING SUPPORT FOR NATIONAL DRUG DATA FILE (NDDF) AND MEDICAID MODULE

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	5 - 1 Year	September 30, 2018

PAYMENT TERMS	DELIVERY TIMEFRAME

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	Two 1-Year	<input type="checkbox"/>		September 30, 2020
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$749,330.00	\$208,217.00	\$957,547.00		

DESCRIPTION

Effective 3/20/2018, the State exercises the final two option years per the costs detailed in Contract Change Notice 1:

Option year 4
 Medicaid Claims Processing for the State of Michigan for 200,001-2 million claims = \$94,278.00
 Annual License Fee for Medicaid Module = \$8,545.00
 TOTAL = \$102,823.00

Option year 5
 Medicaid Claims Processing for the State of Michigan for 200,001-2 million claims = \$96,634.00
 Annual License Fee for Medicaid Module = \$8,760.00
 TOTAL = \$105,394.00

Total for exercising option years 4 and 5 = \$208,217.00



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

CONTRACT CHANGE NOTICE

Change Notice Number **3**

to

Contract Number **071B1300355**

CONTRACTOR	First Databank, Inc.
	701 Gateway Blvd., STE 600
	South San Francisco, CA 94080
	Tina Holmes
	800-428-4495
	Tholmes@fdb.com
	*****8695

STATE	Program Manager	Andrew Mason	DTMB-IT
		517-898-6815	
		MasonA5@michigan.gov	
	Contract Administrator	Simon Baldwin	DTMB
		(517) 284-6997	
		baldwins@michigan.gov	

CONTRACT SUMMARY

DATA, UPDATES AND ONGOING SUPPORT FOR NATIONAL DRUG DATA FILE (NDDF) AND MEDICAID MODULE

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	5 - 1 Year	September 30, 2017

PAYMENT TERMS	DELIVERY TIMEFRAME
ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 Year	<input type="checkbox"/>		September 30, 2018
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$649,015.00	\$100,315.00	\$749,330.00		

DESCRIPTION

Effective 10/1/2017, this Contract is exercising the third option year and is increased by \$100,315.00. The revised Contract expiration date is September 30, 2018. All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement and DTMB Procurement approval.



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

CONTRACT CHANGE NOTICE

Change Notice Number **2**
 to
 Contract Number **071B1300355**

CONTRACTOR	First DataBank, Inc.
	701 Gateway Blvd., STE600
	South San Francisco, CA 94080
	Tina Moon
	800-428-4495
	Tina_Moon@firstdatabank.com
	*****8695

STATE	Program Manager	Andrew Mason	DTMB-IT
		(517) 898-6815	
	MasonA5@michigan.gov		
	Contract Administrator	Simon Baldwin	DTMB
(517) 284-7000			
BaldwinS@michigan.gov			

CONTRACT SUMMARY

Maintenance and Support			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 1, 2010	September 30, 2015	5 - 1 Year	September 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1-Year	<input type="checkbox"/>	N/A	September 30, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$552,845.00	\$96,170.00	\$649,015.00		

DESCRIPTION

Effective 10/1/2016, this Contract is exercising the second option year and is increased by \$96,170.00. The revised Contract expiration date is September 30, 2017. Please note, the Contract Administrator has been changed to Simon Baldwin and the Program Manager has been changed to Andrew Mason. All other terms, conditions, specifications, and pricing remain the same per Contractor and Agency agreement, DTMB Procurement approval and State Administrative Board approval on September 13, 2016.

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B1300355
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
First DataBank, Inc. 701 Gateway Blvd., Ste. 600 South San Francisco, CA 94080	Tina Moon	Tina_moon@firstdatabank.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(800) 428-4495	-8695

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI				
CONTRACT ADMINISTRATOR	DTMB	Jarrod Barron	(517) 284-7045	Barronj1@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Maintenance and Support			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	5, one year	September 30, 2015
PAYMENT TERMS	F.O.B.	SHIPPED TO	
N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 year	September 30, 2016
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$456,675.00		\$96,170.00	\$552,845.00	

DESCRIPTION:
 Effective June 9, 2015, the State exercises the first option year and adds \$96,170.00 for continuing maintenance per the attached vendor quote. The attached vendor quote also locks in pricing for option years two through five, should the State opt to exercise those option years in the future. New contract expiration date is September 30, 2016. The parties also incorporate by reference the attached Amendment No. 1 dated June 27, 2013, which was negotiated pursuant to Stipulation of Voluntary Dismissal entered October 15, 2013 in Case No 11-629-CZ in the 30th Judicial Circuit Court for the State of Michigan. All other pricing, terms and conditions remain the same. Per contractor and agency agreement, and DTMB Procurement approval.



REVISED

June 15, 2015

Ms. Tricia O'Keefe
 Department of Community Health
 Bureau of Medicaid Care Management
 Pharmacy Management Division
 400 South Pine Street
 Lansing, MI 48906

Re: Renewal of License Agreement for Account 257809

Dear Ms. O'Keefe:

Our License Agreement to provide First Databank (FDB) drug knowledge will soon be entering the next five-year Term of our Agreement. This letter will serve as notification of your fee structure for the five-year fee term stated below:

Term: 10/01/2015 – 9/30/2020

Application: Medicaid Claims Processing for the State of Michigan

*Annual License Fee	10/01/2015 to 09/30/2016	10/01/2016 to 09/30/2017	10/01/2017 to 09/30/2018	10/01/2018 to 09/30/2019	10/01/2019 to 09/30/2020
Up to 200,000 claims	\$56,316	\$56,316	\$62,102	\$63,580	\$65,246
200,001-2 million claims	\$88,150	\$88,150	\$91,979	\$94,278	\$96,634
200,001-4 million claims	\$112,810	\$112,810	\$126,027	\$129,181	\$132,411
4,000,001-8 million claims	\$135,480	\$135,480	\$142,339	\$145,901	\$149,549
8,000,001-12 million claims	\$167,875	\$167,875	\$176,377	\$180,785	\$185,307
12,000,001-18 million claims	\$217,085	\$217,085	\$228,076	\$233,776	\$239,619
18,000,001 + million claims	\$217,085+ \$10,397 per each additional 1 million claims per month over 18 million	\$217,085+ \$10,397 per each additional 1 million claims per month over 18 million	\$228,076+ \$10,923 per each additional 1 million claims per month over 18 million	\$233,776+ \$11,197 per each additional 1 million claims per month over 18 million	\$239,619+ \$11,476 per each additional 1 million claims per month over 18 million

*Annual License Fee is based upon on the total number of claims processed per month

	10/01/2015 to 09/30/2016	10/01/2016 to 09/30/2017	10/01/2017 to 09/30/2018	10/01/2018 to 09/30/2019	10/01/2019 to 09/30/2020
Annual License Fee for MEDICAID MODULE:	\$ 8,020	\$ 8,020	\$8,336	\$8,545	\$8,760



June 15, 2015
Page 2

Per the First Amendment with an effective date of June 27, 2013, FDB will issue the following discounts:

	10/01/2015 to 09/30/2016	10/01/2016 to 09/30/2017	10/01/2017 to 09/30/2018
License Fee Discount	\$24,250	\$36,375	\$36,375
Credit:			

Please let me know if you have any questions. I can be reached at 1-800-633-3453 x 43249 or via e-mail at tholmes@fdbhealth.com. Thank you for choosing FDB as your source of integrated drug knowledge. We appreciate your business.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tina M. Holmes', written over a horizontal line.

Tina M. Holmes
Contract Administrator

AMENDMENT NO. 1
TO
CONTRACT NO. 071B1300355
BETWEEN THE STATE OF MICHIGAN
AND
FIRST DATABANK, INC.

AMENDMENT NO. 1, dated as of June 27, 2013 (the "Amendment Effective Date"), to Contract No. 071B1300355 between the State of Michigan ("Michigan") and First DataBank, Inc. ("First DataBank"), effective as of October 1, 2010 (the "Agreement").

WHEREAS, First DataBank and Michigan are parties to the Agreement;

WHEREAS, First DataBank and Michigan desire to amend the Agreement to provide certain discounts to the License Fees; and

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and other agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby agree as follows:

1. Definitions. All defined terms used and not otherwise defined in this Amendment shall have the respective meanings set forth in the Agreement.
2. License Fee Discount. Subject to the provisions set forth below, Michigan shall be entitled to an aggregate discount to the License Fees in the amount of \$121,250.00 (the "Discount"). The Discount will be applied as follows: (a) \$12,125.00 in 2013; (b) \$12,125.00 in 2014, (c) \$24,250.00 in 2015, (d) \$36,375.00 in 2016, if the Agreement is renewed, and (e) \$36,375.00 in 2017, if the Agreement is renewed. First DataBank shall only apply the Discount against License Fees invoiced after the Amendment Effective Date. In the event that the Agreement is terminated for any reason, Michigan's right to the Discount shall terminate.
3. Waiver of Termination for Convenience. Reference is made to the right of Michigan and First DataBank to terminate the Agreement for convenience set forth in Section 1.403 of the Agreement. First DataBank hereby waives its right under Section 1.403 to terminate the Agreement for convenience until such time as the Discount referenced above has been fully applied.
4. Waiver of Non-Renewal Notice. Reference is made to the right of First DataBank to give notice of non-renewal set forth in Section 3(b) of Attachment 1 of the Agreement. First DataBank hereby waives its right under Section 3(b) of Attachment 1 of the Agreement to give notice of non-renewal of the Agreement until such time as the Discount referenced above has been fully applied.

5. License Fees During 2016/2017 Renewal Periods. Reference is made to the obligation of First DataBank to give notice of applicable renewal rates set forth in Section 3(b) of Attachment 1 of the Agreement. First DataBank hereby agrees that the Annual License Fees for the fifth Fee Term of the Agreement (i.e., the Fee Term commencing 10/01/2014 and ending 9/30/2015) shall remain in effect for the first two annual renewal terms (i.e., 10/01/2015 – 9/30/2016 and 10/01/2016 – 9/30/2017), if the Agreement is renewed. For purposes of clarification, the effect of the foregoing is that there shall be no increase in Annual License Fees for the first two annual renewal terms.
6. References. All references to this "Agreement" in the Agreement shall mean the Agreement as amended hereby.
7. Governing Law. This Amendment shall be governed by, and construed in accordance with, the substantive laws of the State of Michigan.
8. Counterparts. This Amendment may be executed in counterparts, which together shall constitute one and the same Amendment. The parties may execute more than one copy of this Amendment, each of which shall constitute an original.
9. No Other Amendments. Except as expressly amended hereby, the terms and conditions of the Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, duly authorized representatives of both parties hereto have executed this Amendment as of the date first written above.


First DataBank, Inc.



By: JAMES M. SCHULTZ
Title: VICE PRESIDENT, FINANCE

Date: 10/7/2013

The State of Michigan



By: Jeffrey Brawlee
Title: Chief Procurement officer, DTMB

Date: 10/15/13

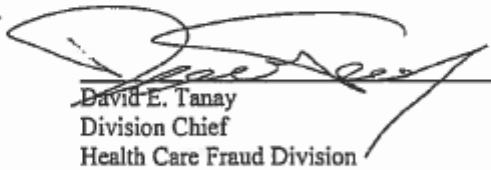
STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30th JUDICIAL CIRCUIT
INGHAM COUNTY

BILL SCHUETTE, ATTORNEY GENERAL)	Case No. 11-629CZ
OF THE STATE OF MICHIGAN, <i>ex rel</i>)	
THE STATE OF MICHIGAN)	Honorable Rosemarie E. Aquilina
Plaintiff,)	
vs.)	
MCKESSON CORPORATION, HEARST)	
CORPORATION, HEARST BUSINESS)	
MEDIA, and FIRST DATABANK, INC.,)	
Defendants.)	

STIPULATION OF VOLUNTARY DISMISSAL
OF FIRST DATABANK, INC. AND THE HEARST CORPORATION

IT IS HEREBY STIPULATED AND AGREED to between Plaintiff State of Michigan and the remaining Defendants The Hearst Corporation and First DataBank, Inc. ("Hearst/FDB")¹ that all claims asserted in this action against Hearst/FDB should be dismissed with prejudice and without taxation of costs.

SO AGREED this day 4th of October, 2013.



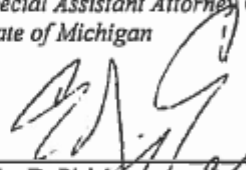
David E. Tanay
Division Chief
Health Care Fraud Division
Michigan Department of Attorney General
P.O. Box 30218
Lansing, MI 48909
(517) 241-6500

¹ McKesson was dismissed from this action on August 28, 2012. [Dkt. 78]. Defendant Hearst Business Media was voluntarily dismissed from this action by stipulation and order dated August 23, 2011. [Dkt. 22].

Peter S. Linden by EJE w/permission

Peter S. Linden
KIRBY McINERNEY LLP
825 Third Avenue, 16th Floor
New York, New York 10022
(212) 371-6600

*Special Assistant Attorney General for the
State of Michigan*



John D. Pirich
Eric Eggan
Honigman Miller Schwartz and Cohn LLP
222 North Washington Square, Suite 400
Lansing, Michigan 48933-1800
(517) 484-8282

*Counsel for First DataBank, Inc.
and The Hearst Corporation*

SO ORDERED: ROSEMARIE E. AQUILINA
Honorable Rosemarie E. Aquilina *137670*
CIRCUIT JUDGE

Dated: 15 Oct 13

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET July 27, 2011
PURCHASING OPERATIONS
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B1300355
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR First DataBank, Inc. 701 Gateway Blvd, Ste. 600 South San Francisco, CA 94080 Email: Tina_moon@firstdatabank.com	TELEPHONE 800-428-4495 Tina Moon <hr/> CONTRACTOR NUMBER/MAIL CODE <hr/> BUYER/CA (517) 373-3993 Greg Faremouth
Contract Compliance Inspector: <p style="text-align: center;">Maintenance and Support</p>	
CONTRACT PERIOD: 5 yrs. + 5 one-year options From: October 1, 2010 To: September 30, 2015	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

TOTAL ESTIMATED CONTRACT VALUE: \$ 456,675.00

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

CONTRACT NO. 071B1300355
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR First DataBank, Inc. 701 Gateway Blvd, Ste. 600 South San Francisco, CA 94080 Email: Tina_moon@firstdatabank.com	TELEPHONE 800-428-4495 Tina Moon CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-3993 Greg Faremouth
Contract Compliance Inspector: <p style="text-align: center;">Maintenance and Support</p>	
CONTRACT PERIOD: 5 yrs. + 5 one-year options From: October 1, 2010 To: September 30, 2015	
TERMS <p style="text-align: right;">N/A</p>	SHIPMENT <p style="text-align: right;">N/A</p>
F.O.B. <p style="text-align: right;">N/A</p>	SHIPPED FROM <p style="text-align: right;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of this Agreement. 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: \$ 456,675.00	

THIS IS NOT AN ORDER: This Contract is awarded on the basis of our inquiry bearing the number RFP-DR-084R0200110. Orders for delivery will be issued directly by the Department of Community Health through the issuance of a Purchase Order Form.

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

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



**STATE OF MICHIGAN
Department of Technology, Management and Budget
Purchasing Operations**

Contract Number: [071B1300355](#)
**First Databank Knowledge Bases,
Maintenance and Support
Michigan Department of Community Health**

Buyer Name: Greg Faremouth
Telephone Number: (517) 373-3993
e-mail: Address: reifd@michigan.gov



Table of Contents

Article 1 – Contract **13**

- 1.000 Project Identification/Scope 13
- 1.100 Scope of Work 13
- 1.200 State Roles and Responsibilities 14
 - 1.201 Contract Compliance Inspector 14
 - 1.202 Project Manager 14
- 1.300 Compensation and Payment 14
 - 1.301 Compensation And Payment 14
 - 1.302 Tax Excluded from Price 14
- 1.400 Termination/Cancellation 14
 - 1.401 Notice and Right to Cure 14
 - 1.402 Termination for Cause 14
 - 1.403 Termination for Convenience 15
 - 1.401 Termination for Non-Appropriation 15
 - 1.402 Termination for Criminal Conviction 15
 - 1.403 Termination for Approvals Rescinded 15
 - 1.404 Rights and Obligations upon Termination 16
 - 1.405 Reservation of Rights 16

ATTACHMENT 1 - LICENSE AGREEMENT 17



Article 1 – Contract

1.000 Project Identification/Scope

The purpose of this Contract is to provide data updates and support for the Products defined in Section 1.100. This Contract, including the License Agreement, attached hereto as Attachment 1, which is incorporated herein 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. In the event of any inconsistency between the terms of the Contract and the License Agreement, the terms of the Contract shall take precedence. The Contract may be modified or amended only by a writing mutually agreed to by the State and Contractor.

1.100 Scope of Work

Licensed Products

As provided under the License Agreement, Contractor will provide data, updates, and ongoing support for the following First Databank Knowledge Bases (FDB Knowledge Bases):

- National Drug Data File (NDDF)
 - Drug-Disease Contraindication Module
 - Indications Module
 - Min/Max Dose Modules
- Medicaid Module – Michigan Only

Contractor must provide data updates, and support services defined in this Section to the State for the Licensed Products while the annual License Fee for the Licensed Products is in effect and paid in full.

The State reserves the right to purchase additional licenses, maintenance, and implementation support, training and proprietary services. Proprietary services to be drawn from this contract will be dependent upon individual and mutually agreed upon licenses between Contractor and the State of Michigan. Once agreed to, Contractor shall not be obliged or authorized to commence any work to implement additional licenses until authorized via a purchase order issued against this contract.

Licensed Products Data Updates

As provided under the License Agreement, Contractor will provide weekly data updates to the Licensed Products.

Contractor shall provide weekly data updates to the Licensed Products at no additional cost to the State. Data Updates shall mean updated or revised data sets of the Licensed Products which may include error corrections and other enhancements that Contractor makes available to its customers at no additional charge. Updates to the Licensed Products shall not include any new releases which contain substantially new or different functionality.

Licensed Products Support Services

As provided under the License Agreement, Contractor will provide support services for the Licensed Products as described in this Section, including the following:

Standard customer support services will be available to the State for the term of the Agreement via First DataBank's customer support toll-free number (1-800-633-3453) during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday, excluding State holidays), via e-mail at cs@firstdatabank.com, or via the Support Link at First DataBank's website at www.firstdatabank.com.

Implementation support services, onsite, or outside of the standard business hours, may be separately contracted between the State and First DataBank. For the purposes of this Agreement, implementation support services include technical contact regarding the integration of the Licensed Products into the State's application.



1.200 State Roles and Responsibilities

1.201 Contract Compliance Inspector

The Contract Compliance Inspector is responsible to monitor Contract activities on a daily basis.

Name	Agency/Division	Title
Whitney Zuker	DTMB, Agency Services for DCH	Contract Admin

1.202 Project Manager

The Project Manager will oversee the project:

Name	Agency/Division	Title
Brian Gallup	DTMB, Agency Services for DCH	Project Manager

1.300 Compensation and Payment

1.301 Compensation And Payment

The annual License Fee will be invoiced as indicated in the License Agreement – **see Attachment 1**. Contractor will submit properly itemized invoices to “Bill To” Address on the Purchase Order. Incorrect or incomplete invoices will be returned to Contractor.

Exception: The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc. and travel time. Contractor must obtain advanced written approval for reimbursement of any such expenses.

1.302 Tax Excluded from Price

Sales Tax: The State is exempt from sales tax for direct purchases. Contractor’s prices must not include sales tax. Purchasing Operations will furnish exemption certificates for sales tax upon request.

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

1.400 Termination/Cancellation

1.401 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 shall 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.

1.402 Termination for Cause

- (a) Either the State or Contractor may terminate this contract, for cause, by notifying the other party in writing, if the other party (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 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.

1.403 Termination for Convenience

Either the State or Contractor may terminate this Contract for its convenience, in whole or part, if either party determines that a termination is in its 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. Either the State or Contractor may terminate this Contract for its convenience, in whole or in part, by giving the appropriate party 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 convenience must cease on the effective date of the termination.

1.404 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 of funds (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 Licensed Products provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor and with the Contractor's prior approval, not to be unreasonably withheld or delayed, reduce the duration the Fee Term commensurate to the reduction in available funding
- (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 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 shall not preclude Contractor from controlling the State's access to or use of the Licensed Products or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for the Licensed Products before the effective date of termination.

1.405 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.

1.406 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 shall pay the Contractor for the use of the Licensed Products through to the time of termination. Termination 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.



1.407 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.

1.404 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.



ATTACHMENT 1
LICENSE AGREEMENT

FIRST DATABANK AND STATE OF MICHIGAN

This **LICENSE AGREEMENT** made and entered into at San Bruno, California as of the Effective Date noted on Exhibit 1 (attached and made a part hereof) between **FIRST DATABANK, INC.**, with offices at 701 Gateway Boulevard, Suite 600, South San Francisco, California 94080 ("First DataBank"), and **LICENSEE** identified in Exhibit 1.

WHEREAS:

1. First DataBank owns or is a Licensee of, and licenses or sublicenses various copyrighted databases of medical, pharmaceutical and nutritional information, and periodic updates thereto ("Databases"), related access software products ("Toolkits") and user manuals ("Manuals") referred to collectively, as the "FDB Knowledge Bases";
2. Licensee desires to obtain the use of one or more of the FDB Knowledge Bases with the Licensee's electronic information system or other computer system (the "System") as described in the Declaration of Use (Exhibit 1);
3. Subject to the terms and conditions of this Agreement, First DataBank is willing to grant to Licensee a nonexclusive license or sublicense to use the FDB Knowledge Bases indicated in Exhibit 1.

NOW, THEREFORE, in consideration of the premises and of the covenants and Agreements hereinafter set forth, it is agreed as follows:

1. **DEFINITIONS OF CERTAIN TERMS.** As used in this Agreement:

- a) "Licensed Products" means those FDB Knowledge Bases indicated in Exhibit 1 as being licensed to Licensee;
- b) "Effective Date" is the date stated in Exhibit 1 and is the Effective Date of this Agreement;
- c) "Fee Term" means the twelve-month period beginning on the Effective Date and each successive twelve-month period;
- d) "Territory" means the United States of America and its territories and possessions.

2. **LICENSE.** Subject to the terms and conditions of this Agreement, First DataBank grants and Licensee accepts the following limited, non-transferable and non-exclusive license or sublicense:

- a) To use the Licensed Products solely for its business operations in the Territory, as defined in Exhibit 1 during the term of this Agreement;
- b) To the extent Exhibit 1 permits bundling of any or all of the Licensed Products, Licensee agrees to add substantial value to the Licensed Products contained in the bundle;
- c) Licensee shall have no right to use the Licensed Products on behalf of any third party, on a service bureau basis or otherwise unless (i) such services are specifically permitted in Exhibit 1, and (ii) such third party has entered into a license Agreement with Licensee or First DataBank and First DataBank has been paid the required license fee;



- d) Under no circumstances shall Licensee use the Licensed Products, or any portion thereof, to develop a competitive product, regardless of what is set forth in Exhibit 1;
- e) Licensee shall obtain no implied license rights to the Licensed Products. Any rights not expressly granted to Licensee in this Agreement shall be retained by First DataBank;
- f) Although some tangible objects may be delivered to Licensee pursuant to this Agreement, title to such objects shall not pass to Licensee, and this Agreement is not for the sale of goods. The Licensed Products shall be delivered to Licensee within twenty (20) working days from whichever is later, the date this License Agreement is executed or the Effective Date on the Exhibit 1. Updates thereto shall be delivered with the frequency and in the format indicated in Exhibit 1;
- g) Licensee will not alter, amend, modify, or change in any respect, any of the Licensed Products unless authorized to do so by First DataBank. Without limiting the foregoing, Licensee shall have no right to use, modify, reproduce or distribute the Licensed Products, nor the right to license third parties to exercise any rights with regard to the Licensed Products other than as permitted in Exhibit 1.

3. TERM AND TERMINATION.

- a) This Agreement and license shall continue for a term of five (5) years from the Effective Date and thereafter may renew for up to five (5) successive one-year periods at each renewal date at the then effective renewal rate in accordance with 3.b, below;
- b) At least sixty (60) days before the end of any term, First DataBank shall send to Licensee written notice of the applicable renewal rate. At least thirty (30) days prior to the end of the term, First DataBank must receive from Licensee written notice of acceptance of renewal for the next term. If Licensee fails to give such written notice of acceptance, then the delivery and use of the Licensed Products will be discontinued as of the end of the current term that is in effect. First DataBank may also give notice of non-renewal in its sole and absolute discretion, without cause and without stating any reason therefore, by sending Licensee written notice of non-renewal at least thirty (30) days prior to the end of the term then in effect.
- c) Upon termination of this Agreement, Licensee shall immediately cease use of the Licensed Products, and shall take such steps as are necessary to prohibit further use of the Licensed Products within Licensee's System and shall furnish First DataBank a written description of the steps so taken. Termination of this Agreement shall automatically terminate all sublicenses of the Licensed Products granted by Licensee. Within thirty (30) days of termination, Licensee shall return to First DataBank all copies or duplicates thereof of the Licensed Products.

4. PAYMENT OF LICENSE FEES. In consideration of the grant of the license, Licensee agrees to pay the Fees ("License Fees") listed in Exhibit 1. Licensee's obligation to pay License Fees for periods preceding termination will survive termination of this Agreement.

5. IMPLEMENTATION. Licensee assumes all responsibility to program or obtain compatible software for use of the Databases. All programming shall be done in accordance with specifications included in Database Manuals and supplements and other documentation provided by First DataBank. Licensee agrees that when programmed, the System shall display Copyright Notices, Disclaimers, and Expiration Dates as specified in individual Database and Licensed Product Manuals.

6. COVENANTS OF LICENSEE. Licensee hereby agrees with First DataBank as follows:

- a) In the event that First DataBank grants Licensee permission to modify any of the Licensed Products, then Licensee assumes all liability for such modified Licensed Products. Licensee hereby acknowledges and agrees that First DataBank disclaims all warranties, express and implied, regarding any Licensee-modified Licensed Products.



- b) Licensee will not use the name of First DataBank, Inc. or "First DataBank", the names of any of the First DataBank Knowledge Bases, or any trademark owned by or licensed to First DataBank, except as authorized in writing;
- c) Should Licensee receive the Licensed Products from First DataBank via CD-Rom, Licensee shall reimburse First DataBank at First DataBank's direct cost for all shipping and delivery of the Licensed Products. Receipt of the Licensed Products via First DataBank's Standard FTP delivery will be at no additional charge to Licensee.
- d) Licensee will pay all taxes, however designated, including sales and use taxes and state and local privilege or excise taxes arising out of this Agreement and the transaction contemplated hereby. Licensee shall timely provide Licensee's applicable tax exemption identification number or certificate, if any, as a condition to not being responsible for a tax hereunder.
- e) That as long as this Agreement is in effect, and for a one (1) year period thereafter, Licensee shall maintain complete records with respect to the use of the Licensed Products, and the number of Medicaid drug claims being processed per the Declaration of Use as outlined on Exhibit 1, Section C to this Agreement. During normal business hours, at reasonable intervals but no more often than annually, and upon reasonable notice, First DataBank or its designated representative may audit and review those records necessary to confirm that the fees paid to First DataBank are correct and that Licensee has complied with all of the terms of this Agreement, including but not limited to, the Declaration of Use and Fee and Payment Schedule set forth in Exhibit 1;
- f) USAGE. Licensee shall use the Licensed Products solely for Licensee's business purposes in the Territory as described in Exhibit 1, "Declaration of Use". Licensee may not, without the prior written consent of First DataBank, transmit the Licensed Products to other data processing systems or units that are "on-line" with Licensee's data processing unit, or use the Licensed Products, or any data derived from the Licensed Products in a computer service business, network, time-sharing, multiple CPU, or multiple user arrangements including the Internet and Intranets, except as, if applicable, explicitly identified in Exhibit 1. Licensee shall not copy, reproduce, store in a retrieval system, sell, assign, pledge, sublicense, convey, transfer, redistribute, transmit, grant other rights in, or permit any unauthorized use of the Licensed Products, or any of them, in any form or by any media (electronic, mechanical, photocopy, recording, or otherwise), on either a permanent or temporary basis to any third party except as authorized in Exhibit 1. Licensee may use an outside Data Recovery Center in the Territory provided First DataBank is notified in writing within thirty (30) days of such location. In such case, the terms of this Agreement shall be fully applicable.
- g) INTENTIONALLY OMITTED
- h) Licensee acknowledges and agrees that the covenants and Agreements made in this Paragraph 6 are made for the benefit of First DataBank and shall survive the termination of this Agreement. In the event of any breach by Licensee of the terms of this Agreement, in addition to other relief to which First DataBank shall be entitled, First DataBank shall be entitled to terminate this License.

7. CONFIDENTIALITY:

- a) In connection with their obligations under and pursuant to this Agreement, each of the parties hereto may disclose to the other Confidential Information (as defined herein);
- b) Disclosing Party means a party that discloses Confidential Information pursuant hereto and "Receiving Party" means a party that receives Confidential Information pursuant hereto;
- c) The term "Confidential Information" shall mean information or data, including without limitation, computer programs, software, code, algorithms, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), trade secrets, schematics and other technical business and customer information, financial and product development



plans, forecasts and strategies, furnished by the Disclosing Party to the Receiving Party (whether before or after the date hereof) and all analyses, compilations, forecasts, studies or other documents prepared by the Receiving Party which contain or reflect any such information. Without limiting the foregoing, the term "Confidential Information" shall include the Licensed Products and the terms of this Agreement. "Confidential Information" may include information disclosed orally and information saved in digital or analog form, in electronic or magnetic mediums and on film or tape. The term "Confidential Information" will not, however, include information which:

- (i) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which, to the knowledge of the Receiving Party, is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation;
- (ii) was known by the Receiving Party, as evidenced by its written records, prior to receipt from the Disclosing Party; or,
- (iii) is independently developed by the Receiving Party without use of any Confidential Information;

d) Each Party:

- (i) will keep the Confidential Information confidential and will not (except as permitted by this Agreement or required by legal process, and only after compliance with the paragraph below) without the prior written consent of the other Party, disclose any Confidential Information in any manner whatsoever; and,
- (ii) will not use any Confidential Information other than in connection with this Agreement, provided, however, that the Receiving Party may reveal the Confidential Information to its affiliates, controlling persons, employees, representatives and agents that have a need to know such Confidential Information to further the permitted use thereof, as long as said affiliates, controlling persons, employees, representatives and agents are informed by the Receiving Party of the confidential nature of the Confidential Information and agree to act in accordance with the terms of this Agreement. Each Party will cause its affiliates, controlling persons, employees, representatives and agents to observe the terms of this Agreement, and will be liable for any breach of this Agreement by any of its affiliates, controlling persons, employees, representatives and agents;

- e) In the event that the Receiving Party is requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party will notify the Disclosing Party promptly (and in any event in advance of providing Confidential Information) so that the Disclosing Party may seek a protective order or other appropriate remedy (and the Receiving Party will consult with the Disclosing Party with respect to taking steps to resist or narrow the scope of any such request or legal process) or, in the sole discretion of the Disclosing Party, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or that the Disclosing Party waives compliance with the terms of this Agreement, the Receiving Party will furnish only that portion of the Confidential Information which it is advised by the Receiving Party's counsel is legally required and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

8. PROPRIETARY RIGHTS INDEMNIFICATION. First DataBank shall hold harmless and defend Licensee against suits based solely on a claim by a third party that the use of Licensed Products by Licensee under this Agreement infringes on any patent, copyright, trademark, or other property right in the Territory, provided that Licensee gives First DataBank prompt written notice of such suits and permits First DataBank to control the defense thereof. Should any of the Licensed Products become, or in First DataBank's reasonable opinion be likely to become, subject of a claim of infringement for which Licensee is entitled to be indemnified against as set forth herein, First DataBank, may at its option and in addition to any other remedies available to it:

- (i) obtain a license at no cost to Licensee, or its customers, permitting their continued use of such Licensed Products;
- (ii) modify such Licensed Products (such modification must maintain comparable functionality and performance) in a manner so that such Licensed Products are no longer infringing;



- (iii) substitute other products of comparable functionality and performance that does not infringe any copyright, patent, trademark or other intellectual property law in the Territory; or,
- (iv) terminate Licensee's license to such Licensed Products upon 180 day prior written notice to Licensee whereupon Licensee and its customers shall immediately terminate all further use of the affected Licensed Products and First DataBank will refund any prepaid License Fees associated with such Licensed Products, prorated based upon the number of months (and days) remaining in the current Fee Term.

9. DISCLAIMERS.

- a) Licensee shall inspect and test Licensed Products upon receipt thereof. The Licensed Products are deemed proper and correct unless, within ten (10) working days after receipt thereof, Licensee provides First DataBank with written notice and documentation of any error in the Licensed Products;
- b) First DataBank has utilized reasonable care in collecting and reporting the information contained in the Licensed Products and has obtained such information from sources believed to be reliable. First DataBank, however, does not warrant the accuracy of codes, prices or other data contained in the Licensed Products. Information reflecting prices is not a quotation or offer to sell or purchase. The clinical information contained in the Licensed Products is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other healthcare professionals in patient care. The absence of a warning for a given drug or drug combination should not be construed to indicate that the drug or drug combination is safe, appropriate or effective in any given patient.
- c) **FIRST DATABANK MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OTHER THAN THOSE IN THIS LICENSE AGREEMENT, AND FURTHER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE ACCURACY OF THE DATA FROM WHICH THE LICENSED PRODUCTS ARE COMPILED, NOR THE COMPATIBILITY OF THE LICENSED PRODUCTS WITH LICENSEE'S HARDWARE AND SYSTEMS, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- d) **IN NO EVENT SHALL FIRST DATABANK BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, RELIANCE, OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF FIRST DATABANK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
- e) **EXCEPT FOR FIRST DATABANK'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 8 OF THIS AGREEMENT, IN NO EVENT SHALL FIRST DATABANK'S LIABILITY EXCEED THE AMOUNT PAID TO IT BY LICENSEE FOR THE CURRENT FEE TERM OF THIS LICENSE AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION OR CLAIM, AND REGARDLESS OF WHETHER THE ACTION OR CLAIM IS BASED ON ANY ALLEGED ACT OR OMISSION OF FIRST DATABANK, INCLUDING BUT NOT LIMITED TO ANY ACTION BASED ON NEGLIGENCE, BREACH OF WARRANTY OR BREACH OF CONTRACT.**

10. PROFESSIONAL RESPONSIBILITY. Licensee acknowledges that the professional duty to the patient in providing healthcare services lies solely with the healthcare professional providing patient care services. Licensee takes full responsibility for the use of information provided by the Licensed Products in patient care and acknowledges that the use of the Licensed Products in no way is intended to replace or substitute for professional judgment. First DataBank does not assume any responsibility for actions of Licensee which may result in any liability or damages due to malpractice, failure to warn, negligence or any other basis. Licensee shall ensure that all healthcare professionals using the Licensed Products are aware of the limitations of the use of the Licensed Products.



11. USE OF PATIENT EDUCATION. Licensee hereby agrees not to modify the Patient Education Knowledge Databases. If Licensee distributes the Patient Education Knowledge Database information, then Licensee agrees to distribute an unmodified version of the information from the Patient Education Knowledge Database for each applicable drug. Licensee further agrees to include the following disclaimer, or subsequent disclaimer language that may be provided by First DataBank, at the top of any patient education information material provided to patients from the Patient Education Knowledge Databases:



NOTE: This is a summary and does not contain all possible information about this product. For complete information about this product or your specific health needs, ask your healthcare professional. Always seek the advice of your healthcare professional if you have any questions about this product or your medical condition. This information is not intended as individual medical advice and does not substitute for the knowledge and judgment of your healthcare professional. This information does not contain any assurances that this product is safe, effective or appropriate for you.

12. **ASSIGNMENT.** This license and Licensee's rights hereunder may not be assigned or otherwise transferred, voluntarily or by operation of law. Any purported assignment of the rights or delegation of the duties under this Agreement by Licensee shall be void unless prior written consent is secured from First DataBank. Notwithstanding the previous sentence, Licensee may assign this Agreement to another executive State of Michigan agency so long as the Use by such executive State of Michigan agency is in compliance with the Declaration of Use as outlined on Exhibit 1, Section C and adheres to the Terms of the Agreement.
13. **FORCE MAJEURE.** Failure of First DataBank to perform or delay in the performance of First DataBank's obligations under this Agreement due to any cause or event not reasonably within First DataBank's control, including but not limited to casualty, labor disputes, failure of equipment, compliance with governmental authority, war, terrorism, or Act of God, shall not constitute a breach of this Agreement, and First DataBank's performance shall be excused during such period of delay.
14. **NOTICES.** Notices hereunder shall be delivered by hand, air courier express or certified mail with return receipt requested to the address of the Licensee identified on Exhibit 1, and shall be deemed delivered three (3) days after mailing.
15. **CHOICE OF LAW.** The Contract shall 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.
16. **ENTIRETY; AMENDMENTS.** This Agreement, including all Exhibits hereto, constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all prior Agreements, proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. All amendments to this Agreement shall be in writing signed by both parties.
17. **NO WAIVER.** No term or provision hereof shall be deemed waived and no such breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by a party to, or waiver of a breach by the other, whether express or implied, shall not constitute a consent for, or waiver of, or excuse for any other different subsequent breach.
18. **SEVERABILITY.** If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.



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IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the Effective Date on Exhibit 1.

FIRST DATABANK

DATED: _____

500 East 96th Street, Suite 500
Indianapolis, IN 46240-3767
(800) 428-4495
(317) 571-7200
(317) 571-7253 (FAX)

By

Signature

James M. Schultz

Name (Print)

Vice President, Finance

Title

LICENSEE

DATED: _____

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
400 South Pine Street
Lansing, MI 48933-2250
(517) 335-5265

By

Signature

Name (Print)

Title



**EXHIBIT 1
 LICENSEE REPRESENTATIONS
 LICENSED PRODUCTS
 DECLARATION OF USE
 LICENSE FEES AND PAYMENT SCHEDULE
 ADDITIONAL TERMS AND CONDITIONS**

This Exhibit 1 is a part of the License Agreement between First DataBank and Licensee and identifies Licensee, the Licensed Products, Declaration Of Use, License Fees, and Additional Terms (if any) applicable to that Agreement.

The Effective Date of this Agreement is: October 1, 2010

A. LICENSEE REPRESENTATIONS

Licensee Name: State of Michigan
 Street Address: 530 West Allegan Street, 2nd Floor
 City/State/Zip: Lansing, MI 48909
 Telephone: (517) 373-0305

B. LICENSED PRODUCTS: Unless otherwise specified, Licensed Products are updated weekly.

**NATIONAL DRUG DATA FILE™ (NDDF)
 DRUG-DISEASE CONTRAINDICATION MODULE™
 INDICATIONS MODULE™
 MIN/MAX DOSE MODULES™**

Premium Module

MEDICAID MODULE™, Michigan only

C. DECLARATION OF USE:

Licensee shall use the Licensed Products solely in the administration of the State of Michigan’s Medicaid drug benefit program for the purposes of processing and adjudicating prescription Medicaid drug claims, and providing prospective and retrospective drug utilization review services related to such claims. The Licensed Products will be used in a single computer system at the site identified above in Section A. Annual Fees will be assessed based on the average number of Medicaid claims processed per month for the preceding twelve (12) month period, such number to be updated annually by Licensee as the basis for fee assessment. For purposes of this Agreement, a processed claim shall be counted at the point during a transaction when a decision is made to pay or deny a claim.

Authorized use of Licensed Products expressly excludes distribution of data to any third party outside of Licensee’s organization, use in pharmacy or medical practice management systems which support drug dispensing, a clinical data repository, computerized physician order entry, electronic medication administration record, e-prescribing, disease management applications, prescription pricing in a retail setting, clinical medical records management systems, litigation or regulatory investigations or inquiry (other than pursuant to a subpoena or other legal process compelling disclosure), supporting internet website(s), or any other use not stated above.



D. LICENSE FEES AND PAYMENT SCHEDULE:

	10/01/2010 to 09/30/2011	10/01/2011 to 09/30/2012	10/01/2012 to 09/30/2013	10/01/2013 to 09/30/2014	10/01/2014 to 09/30/2015
Annual License Fee for Use as defined in Section C:					
Covers up to 200,000 claims processed per month	\$ 52,839	\$ 54,891	\$ 55,366	\$ 55,841	\$ 56,316
200,001 – 2 million claims processed per month	\$ 79,220	\$ 82,350	\$ 85,580	\$ 88,150	\$ 88,150
2 - 4 million claims processed per month	\$ 107,160	\$ 111,385	\$ 111,860	\$ 112,335	\$ 112,810
4 + million claims processed per month	Special Quote	Special Quote	Special Quote	Special Quote	Special Quote

	10/01/2010 to 09/30/2011	10/01/2011 to 09/30/2012	10/01/2012 to 09/30/2013	10/01/2013 to 09/30/2014	10/01/2014 to 09/30/2015
Annual License Fee for MEDICAID MODULE for Use as defined in Section C:	\$ 3,760	\$ 5,640	\$ 7,785	\$ 8,020	\$ 8,020

- i) License Fees shall consist of Annual Fees as specified in Exhibit 1. Annual Fees for each annual Fee Term are due and payable on each anniversary of the Effective Date.
- ii) Licensee will remit all payments in full no later than thirty (30) days of the invoice date. Amounts not received within forty-five (45) days will be subject to late fees of three-quarters percent (.075%) per month, on a prorated basis. In addition, First DataBank may recover from Licensee all expenses incurred in connection with collecting overdue amounts, including, but not limited to, collection costs and reasonable attorney’s fees. Failure to pay amounts when due may result in discontinuation of product delivery and suspension of implementation support and customer service.
- iii) **STANDARD CUSTOMER SUPPORT SERVICES:** Standard customer support services will be available to Licensee for the term of the License Agreement via First DataBank’s customer support toll-free number (1-800-633-3453) during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday), via e-mail at cs@firstdatabank.com, or via the Support Link at First DataBank’s website at www.firstdatabank.com.

E. ADDITIONAL TERMS AND CONDITIONS:

1. This Agreement supersedes the previous Agreement between American Druggist Blue Book Data Center and Michigan Department of Social Services effective October 1, 1982.
2. The Annual License Fee for the Fee Term beginning October 1, 2010 is based upon Licensee’s processing up to two million drug claims per month. License Fees for future terms may be based upon increases or decreases in this volume.