

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET February 13, 2012
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B9200115
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR		TELEPHONE Phillip J. Glassman (402) 571-2449
International Gamco, Inc. 9335 North 48th Street Omaha, NE 68152-1541 Email: Phillip.Glassman@intlgamco.com		
		BUYER/CA (517) 241-7233 Don Mandernach
Contract Compliance Inspector: Tom Weber, (517) 335-6832 Charitable Pull-Tab Tickets—Bureau of State Lottery		
CONTRACT PERIOD: 5 yrs. + 3 one-year options From: January 1, 2009 To: December 31, 2013		
TERMS	Net 30 days	SHIPMENT Per specifications
F.O.B.	Per specifications	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS Per specifications		
MISCELLANEOUS INFORMATION:		

NATURE OF CHANGE (S):

Effective February 13, 2012, the Buyer has been changed to:

Don Mandernach
Phone: (517) 241-7233
mandernachd@michigan.gov

All other terms, conditions, specifications and pricing remain the same.

AUTHORITY/REASON:

Per DTMB-Procurement's approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$120,632.95

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

May 15, 2009

NOTICE
 TO
 CONTRACT NO. 071B9200115
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR		TELEPHONE Phillip J. Glassman (402) 571-2449
International Gamco, Inc. 9335 North 48 th Street Omaha, NE 68152-1541 Email: Phillip.Glassman@intlgamco.com		
Contract Compliance Inspector: Tom Weber, (517) 335-6832		BUYER/CA (517) 373-7374 Joan Bosheff
Charitable Pull-Tab Tickets—Bureau of State Lottery		
CONTRACT PERIOD: 5 yrs. + 3 one-year options From: January 1, 2009 To: December 31, 2013		
TERMS	SHIPMENT	
Net 30 days	Per specifications	
F.O.B.	SHIPPED FROM	
Per specifications	N/A	
MINIMUM DELIVERY REQUIREMENTS		
Per specifications		
MISCELLANEOUS INFORMATION:		

The terms and conditions of this Contract are those of ITB #07118200304, this Contract Agreement and the vendor's quote dated September 22, 2008. 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: \$120,632.95

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

CONTRACT NO. 071B9200115
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR International Gamco, Inc. 9335 North 48th Street Omaha, NE 68152-1541 Email: Phillip.Glassman@intlgamco.com	TELEPHONE Phillip J. Glassman (402) 571-2449 BUYER/CA (517) 373-7374 Joan Bosheff
Contract Compliance Inspector: Tom Weber, (517) 335-6832 <p style="text-align: center;">Charitable Pull-Tab Tickets—Bureau of State Lottery</p>	
CONTRACT PERIOD: 5 yrs. + 3 one-year options From: January 1, 2009 To: December 31, 2013	
TERMS <p style="text-align: center;">Net 30 days</p>	SHIPMENT <p style="text-align: center;">Per specifications</p>
F.O.B. <p style="text-align: center;">Per specifications</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">Per specifications</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are those of ITB #07118200304, this Contract Agreement and the vendor's quote dated September 22, 2008. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Estimated Contract Value: \$120,632.95</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB #07118200304. Orders for delivery will be issued directly by the Department of Labor and Economic Growth, Michigan Career and Technical Institute 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: <hr/> <p style="text-align: center;">International Gamco, Inc.</p> <hr/> <p style="text-align: center;">Firm Name</p> <hr/> <p style="text-align: center;">Authorized Agent Signature</p> <hr/> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <hr/> <p style="text-align: center;">Date</p>	FOR THE STATE: <hr/> <p style="text-align: center;">Signature</p> <hr/> <p style="text-align: center;">Joan Bosheff, Buyer Specialist</p> <hr/> <p style="text-align: center;">Name/Title</p> <hr/> <p style="text-align: center;">Commodities Division, Purchasing Operations</p> <hr/> <p style="text-align: center;">Division</p> <hr/> <p style="text-align: center;">Date</p>
--	--



STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations

Contract No. [071B9200115](#)
Charitable Pull-Tab Tickets

Buyer Name: Joan Bosheff
Telephone Number: (517) 373-7374
E-Mail Address: bosheffj@michigan.gov

TABLE OF CONTENTS

DEFINITIONS

1.010	<i>Project Identification</i>	1
1.011	Project Request	1
1.012	Background	1
1.020	<i>Scope of Work and Deliverables</i>	1
1.021	In Scope	1
1.022	Work and Deliverable	1
1.030	<i>Roles and Responsibilities</i>	1
1.040	<i>Project Plan</i>	1
1.050	<i>Acceptance</i>	1
1.060	<i>Pricing</i>	1
1.061	Proposal Pricing	1
1.062	Price Term	1
1.063	Tax Excluded from Price	2
1.070	<i>Commodity Requirements and Terms</i>	2
	<i>Product Quality</i>	2
1.0701	Specifications	2
1.0702	Alternate Bids—Deleted, Not Applicable	2
1.0703	Research and Development	2
1.0704	Quality Assurance Program	2
1.0705	Warranty for Products or Services – Deleted, Not Applicable.....	2
1.0706	Training- Deleted, Not Applicable	2
1.0707	Special Programs – Deleted, Not Applicable.....	2
1.0708	Security.....	2
	<i>Delivery Capabilities</i>	2
1.0709	Time Frames	2
1.0710	Minimum Order-- Deleted, Not Applicable	2
1.0711	Packaging	2
1.0712	Palletizing	2
1.0713	Delivery Terms and Shipping.....	3
1.0714	Contract Performance – Deleted, Not Applicable	3
1.0715	Place of Performance – Deleted, Not Applicable	3
1.0716	Environmental Requirements	3
1.0717	Subcontractors.....	5
1.0718	Reports and Meetings	5
1.0719	Samples/Models—Deleted, Not Applicable	5
1.080	<i>Additional Requirements – Please refer to the following Statements of Work</i>	5
C.1 INTRODUCTION		6
Article 2, Terms and Conditions		15
2.000	<i>Contract Structure and Term</i>	15
2.001	Contract Term	15
2.002	Renewal(s)	15
2.003	Legal Effect	15
2.004	Attachments & Exhibits	15
2.005	Ordering	15
2.006	Order of Precedence.....	15
2.007	Headings.....	16
2.008	Form, Function & Utility – Deleted, Not Applicable.....	16
2.009	Reformation and Severability	16
2.010	Consents and Approvals	16
2.011	No Waiver of Default	16
2.012	Survival	16
2.020	<i>Contract Administration</i>	16
2.021	Issuing Office	16

2.022	Contract Compliance Inspector (CCI)	17
2.023	Project Managers	17
2.024	Change Requests	17
2.025	Notices	18
2.026	Binding Commitments	18
2.027	Relationship of the Parties	18
2.028	Covenant of Good Faith	18
2.029	Assignments	18
2.030	<i>General Provisions</i>	19
2.031	Media Releases	19
2.032	Contract Distribution	19
2.033	Permits	19
2.034	Website Incorporation	19
2.035	Future Bidding Preclusion	19
2.036	Freedom of Information	19
2.037	Disaster Recovery	19
2.040	<i>Financial Provisions</i>	19
2.041	Fixed Prices for Services/Deliverables	19
2.042	Adjustments for Reductions in Scope of Services/Deliverables	20
2.043	Services/Deliverables Covered	20
2.044	Invoicing and Payment – In General	20
2.045	Pro-ration – Reserved, Not Applicable	20
2.046	Antitrust Assignment	20
2.047	Final Payment	20
2.048	Electronic Payment Requirement	20
2.050	<i>Taxes</i>	21
2.051	Employment Taxes	21
2.052	Sales and Use Taxes	21
2.060	<i>Contract Management</i>	21
2.061	Contractor Personnel Qualifications	21
2.062	Contractor Key Personnel	21
2.063	Re-assignment of Personnel at the State’s Request	22
2.064	Contractor Personnel Location – Deleted, Not applicable	22
2.065	Contractor Identification	22
2.066	Cooperation with Third Parties	22
2.067	Contract Management Responsibilities	22
2.068	Contractor Return of State Equipment/Resources – Deleted, Not Applicable	22
2.070	<i>Subcontracting by Contractor</i>	23
2.071	Contractor full Responsibility	23
2.072	State Consent to delegation	23
2.073	Subcontractor bound to Contract	23
2.074	Flow Down	23
2.075	Competitive Selection	23
2.080	<i>State Responsibilities</i>	23
2.081	Equipment – Deleted, Not Applicable	23
2.082	Facilities	23
2.090	<i>Security</i>	24
2.091	Background Checks	24
2.092	Security Breach Notification	24
2.093	PCI Data Security Requirements – Deleted, Not Applicable	24
2.100	<i>Confidentiality</i>	24
2.101	Confidentiality	24
2.102	Protection and Destruction of Confidential Information	25
2.103	Exclusions	25
2.104	No Implied Rights	25
2.105	Respective Obligations	25
2.110	<i>Records and Inspections</i>	26
2.111	Inspection of Work Performed	26
2.112	Examination of Records	26

2.113	Retention of Records	26
2.114	Audit Requirements and Resolution.....	26
2.115	Errors	26
2.120	<i>Warranties</i>	27
2.121	Warranties and Representations.....	27
2.122	Warranty of Merchantability – Deleted, Not Applicable.....	28
2.123	Warranty of Fitness for a Particular Purpose – Deleted, Not Applicable	28
2.124	Warranty of Title	28
2.125	Equipment Warranty – Deleted, Not Applicable.....	28
2.126	Equipment to be New – Deleted, Not Applicable.....	28
2.127	Prohibited Products – Deleted, Not Applicable	28
2.128	Consequences For Breach.....	28
2.130	<i>Insurance</i>	28
2.131	Liability Insurance	28
2.132	Subcontractor Insurance Coverage	30
2.133	Certificates of Insurance and Other Requirements	30
2.140	<i>Indemnification</i>	31
2.141	General Indemnification.....	31
2.142	Code Indemnification.....	31
2.143	Employee Indemnification	31
2.144	Patent/Copyright Infringement Indemnification.....	31
2.145	Continuation of Indemnification Obligations	32
2.146	Indemnification Procedures	32
2.150	<i>Termination/Cancellation</i>	32
2.151	Notice and Right to Cure	32
2.152	Termination for Cause.....	33
2.153	Termination for Convenience.....	33
2.154	Termination for Non-Appropriation	33
2.155	Termination for Criminal Conviction	34
2.156	Termination for Approvals Rescinded	34
2.157	Rights and Obligations upon Termination.....	34
2.158	Reservation of Rights	34
2.160	<i>Termination by Contractor</i>.....	35
2.161	Termination by Contractor	35
2.170	<i>Transition Responsibilities</i>	35
2.171	Contractor Transition Responsibilities	35
2.172	Contractor Personnel Transition	35
2.173	Contractor Information Transition	35
2.174	Contractor Software Transition.....	35
2.175	Transition Payments	35
2.176	State Transition Responsibilities.....	36
2.180	<i>Stop Work</i>	36
2.181	Stop Work Orders.....	36
2.182	Cancellation or Expiration of Stop Work Order.....	36
2.183	Allowance of Contractor Costs.....	36
2.190	<i>Dispute Resolution</i>	36
2.191	In General	36
2.192	Informal Dispute Resolution	37
2.193	Injunctive Relief	37
2.194	Continued Performance.....	37
2.200	<i>Federal and State Contract Requirements</i>	37
2.201	Nondiscrimination.....	37
2.202	Unfair Labor Practices	38
2.203	Workplace Safety and Discriminatory Harassment.....	38
2.210	<i>Governing Law</i>	38
2.211	Governing Law	38
2.212	Compliance with Laws.....	38
2.213	Jurisdiction	38

2.220	<i>Limitation of Liability</i>	38
2.221	Limitation of Liability.....	38
2.230	<i>Disclosure Responsibilities</i>	38
2.231	Disclosure of Litigation.....	38
2.232	Call Center Disclosure.....	39
2.233	Bankruptcy.....	39
2.240	<i>Performance</i>	40
2.241	Time of Performance.....	40
2.242	Service Level Agreements (SLAs) – Deleted, Not Applicable.....	40
2.243	Liquidated Damages.....	40
2.244	Excusable Failure.....	42
2.250	<i>Approval of Deliverables</i>	43
2.251	Delivery Responsibilities.....	43
2.252	Delivery of Deliverables.....	43
2.253	Testing.....	43
2.254	Approval of Deliverables, In General.....	43
2.255	Process For Approval of Written Deliverables.....	44
2.256	Process for Approval of Services.....	44
2.257	Process for Approval of Physical Deliverables.....	45
2.258	Final Acceptance.....	45
2.260	<i>Ownership</i>	45
2.261	Ownership of Work Product by State.....	45
2.262	Vesting of Rights.....	45
2.263	Rights in Data.....	45
2.264	Ownership of Materials.....	46
2.270	<i>State Standards</i>	46
2.271	Existing Technology Standards.....	46
2.272	Acceptable Use Policy.....	46
2.273	Systems Changes.....	46
2.280	<i>Extended Purchasing- Deleted, Not Applicable</i>	46
2.282	<i>State Employee Purchases – Deleted, Not Applicable</i>	46
2.290	<i>Environmental Provision</i>	46
2.291	Environmental Provision.....	46
IT SECURITY GLOSSARY of TERMS		52

Attachment A, Pricing (1 page)

Appendix A – IT Security Policies and Glossary of Terms (6 pages)

DEFINITIONS

“Days” means calendar days unless otherwise specified.

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

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

“Bidder” includes any person, agency, organization, corporation, partnership, or company that submits a proposal in response to this RFP. “Vendor” and “Bidder” are used synonymously throughout this document.

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

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

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

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

“Contractor” refers to the successful bidder/vendor which is awarded a contract resulting from this RFP.

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

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

“DMB” means the Michigan Department of Management and Budget

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

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

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

“Incident” means any interruption in Services.

“ITB” is a generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders

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

“Lottery” means the State of Michigan, Bureau of State Lottery.

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

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

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

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

“Proprietary Game” means a patented or trademarked play style, and/or packaging concepts, other technology under development and owned by a specific vendor, etc.

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

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

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

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

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

“Specialty Game” means a Charitable Pull-Tab Ticket that involves special production techniques or other special requirements (e.g. short print run, unusual color, die cut, fold, play method, printing considerations, packaging, etc.)

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

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

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

“Vendor” includes any person, agency, organization, corporation, partnership, or company that submits a proposal in response to this RFP. “Vendor” and “Bidder” are used synonymously throughout this document.

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

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

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

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



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This Contract is for the printing, services, and supplies associated with charitable pull-tab tickets for the Michigan Bureau of State Lottery (Lottery).

1.012 Background

The Bureau of State Lottery Charitable Gaming Division (Charitable Gaming) issues licenses to charitable organizations and offers charitable pull-tabs to these organizations to sell for fund raising purposes. The profits Charitable Gaming generates from the charitable pull-tabs are returned to the State General Fund. The Contractor will work cooperatively with the Lottery and Charitable Gaming program managers and staff with the primary goal of growing sales and the associated net returns to beneficiaries.

The Charitable Gaming Division sells over \$209 million in pull-tab tickets annually. Number of tickets sold is approximately 200 million made up of price points from \$0.50 to \$5.00. The charitable pull-tabs are currently shipped from the printer to the Lottery warehouse in Lansing. They are warehoused and distributed by Lottery staff, and shipped via UPS to approximately 14 suppliers who then fulfill orders to licensed organizations throughout the state. Lottery currently pays the shipping on the orders to the suppliers. The Lottery is providing bidders with the option to include the distribution of the pull-tab tickets directly to the suppliers as an optional pricing scenario. Refer to Section 1.080, Statement of Work, for more information and specific requirements.

1.020 Scope of Work and Deliverables

1.021 In Scope

The Michigan Lottery intends to enter into a contract to provide Charitable Pull-Tab Tickets.

1.022 Work and Deliverable

The Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the Statement of Work as indicated in Section 1.080.

1.030 Roles and Responsibilities

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.040 Project Plan

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.050 Acceptance

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.060 Pricing

1.061 Proposal Pricing

For authorized Services and Price List, see pricing grids provided in Attachment A.

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dmb for current rates.

1.062 Price Term

Prices are firm for the entire length of the Contract.

**1.063 Tax Excluded from Price**

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

1.070 Commodity Requirements and Terms**Product Quality****1.0701 Specifications**

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in the Statement of Work in Section 1.080 and Article 1 of this Contract.

1.0702 Alternate Bids—Deleted, Not Applicable**1.0703 Research and Development**

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.0704 Quality Assurance Program

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.0705 Warranty for Products or Services – Deleted, Not Applicable**1.0706 Training- Deleted, Not Applicable****1.0707 Special Programs – Deleted, Not Applicable****1.0708 Security**

If changes are made to any part of the security program or procedures, the Commissioner and Director of Security shall be so notified. The Commissioner reserves the right to require at any time such further and additional security measures as deemed necessary to ensure the integrity of the ticket products. In addition, the Contractor must immediately notify the Director of Security for the Michigan Lottery and the Contract Administrator, by telephone and in writing of any breach of security during the term of this contract including but not limited to break-in or theft or disappearance of paper stock, tickets, data, programs, or files used in the production of tickets. This notification must be made within 24 hours of discovery of the breach.

Delivery Capabilities**1.0709 Time Frames**

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.0710 Minimum Order-- Deleted, Not Applicable**1.0711 Packaging**

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.0712 Palletizing

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.



1.0713 Delivery Terms and Shipping

Prices are "F.O.B. Delivered" with transportation charges prepaid on all orders.

The Contractor's requirements are outlined in Section 1.080 of the Statement of Work.

1.0714 Contract Performance – Deleted, Not Applicable

1.0715 Place of Performance – Deleted, Not Applicable

1.0716 Environmental Requirements

Environmental Purchasing Policy – The State of Michigan has committed to encourage the use of products and services that impact the environment less than competing products. This can be best accomplished by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that may be considered in Best Value Purchasing evaluation include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bio-accumulative. Bidders able to supply products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

I. Recycled Content and Recyclability

A. Recycled Packaging. Bidders may offer some or all of the following items listed below or provide alternative proposal as to how packaging materials can be reduced, eliminated or otherwise made more environmentally preferable. It is desirable that Bidders offer packaging which:

- a. is made from recycled content which meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard)
- b. minimizes or eliminates the use of polystyrene or other difficult to recycle materials
- c. minimizes or eliminates the use of packaging and containers and, in the alternative, minimizes or eliminates the use of non-recyclable packaging and containers
- d. provides for a return program where packaging can be returned to a specific location for recycling
- e. contains materials which are easily recyclable in Michigan.

All Bidders are requested to indicate below an estimate of the percentage of recycled materials, if any, contained in each item bid. Higher percentages of recycled materials are preferred. Product performance is paramount, whether containing recycled material or not; however, preference will be given to products that perform up to specification and are environmentally preferable without compromising quality.

_____ % (Total estimated percentage of recovered material)

_____ % (Estimated percentage of post-consumer material)

_____ % (Estimated percentage of post-industrial waste)

Certification

I, Phillip J. Glassman, am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.

PJG (Initial)

II. Materials Identification and Tracking



A. Hazardous Material Identification. ‘Hazardous material’, as used in this clause, includes any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the contract).

- (1) The bidder must list any hazardous material, as defined in §370.20 (a) of 40 CFR, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (if none, enter ‘None’)	Identification Number
NONE	

- (2) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.
- (3) The apparently successful bidder agrees to submit, for each item as required prior to award, a Material Safety Data Sheet for each hazardous material identified in paragraph (1) of this clause. Data shall be submitted in accordance with Section 312 of the federal Emergency Planning and Community Right-to-Know Act, whether or not the apparently successful bidder is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful bidder being considered non-responsive and ineligible for award.

A. Clean Air and Water

Vendor certifies that any facility to be used in the performance of this contract has all the necessary environmental permits and is in consistent compliance with all applicable environmental requirements and has no outstanding unresolved violations.

The vendor will immediately notify the state, before award, of the receipt of any communication from the Environmental Protection Agency or any state environmental agency, of civil or criminal enforcement for any facility that the vendor proposes to use in the performance of this contract.

PJG (Initial)

B. Emergency Planning and Community Right-to-Know Reporting - By signing this offer, the bidder certifies that:

- (1) The owner or operator of each facility that will be used in the performance of this contract is in compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.). EPCRA filing and reporting requirements include emergency planning notification, release reporting, hazardous chemical inventory reporting, and toxic chemical release inventory (TRI) reporting.

- (2) The owner or operator of each facility that will be used in the performance of this contract will maintain compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.) for the life of the contract.

PJG (Initial)



1.0717 Subcontractors

The contractor shall indicate below **ALL** work to be subcontracted under any resulting Contract (use additional attachment if necessary; estimates are acceptable):

Description of Work to be sub-contracted	Percent (%) of total contract value to be sub-contracted	Sub-contractor’s name and principal place of business (City and State)

1.0718 Reports and Meetings

Bidders are to refer to the Statement of Work for list of required reports.

- (a) Reports.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

 - (i) separately address Contractor’s performance in each area of the Services;
 - (ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
 - (iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
 - (iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
 - (v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
 - (vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.
 - (vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.
 - (viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.
 - (ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

- (b) Meetings.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State’s request, Contractor shall prepare and circulate minutes promptly after a meeting.

1.0719 Samples/Models—Deleted, Not Applicable

1.080 Additional Requirements – Please refer to the following Statements of Work

Charitable pull-tab tickets

Performance Bond—Contractor must furnish a bond as security for the faithful performance of this Contract according to its specifications, terms, and conditions. The bond must be conditioned so that the surety will fully repay/reimburse the State all costs, expenses, and damages, up to the amount of the bond, which may occur as a result of any default of the Contractor. The performance bond must be maintained by the Contractor for the life of the Contract. The bond amount required is one hundred thousand dollars (\$100,000.00).



Statement of Work for Charitable Gaming Pull-Tab Tickets

C.1 INTRODUCTION

The Michigan Lottery Charitable Gaming Division is responsible for providing pull-tab tickets to licensed suppliers for resale to organizations that have been issued a gaming license by the Lottery. The Charitable Gaming Division presently inventories approximately 15 different pull-tab games with the introduction of approximately six (6) to eight (8) new games per year. Approximately 200 million tickets are sold to organizations each year. The number of tickets ordered for each game will be at the discretion of the Lottery. Quantities are estimates only and the State is neither committed to nor limited to the purchasing in the exact quantities noted.

The contractor must be prepared to provide all services for the secure production and delivery of Charitable Gaming Pull-Tab tickets, including but not limited to:

- a. Graphic design, prize structure development, launch schedule coordination, print production, packaging, and delivery of pull-tab tickets.
- b. Provide control over inventory and security as necessary to protect the integrity of the game
- c. Provide various marketing and sales support functions specified later in this document.

C.2. MARKETING

It is in the best interests of both the Lottery and the Contractor to maximize the sale of tickets at bingo halls and in Michigan's veteran and fraternal clubs. Contractor assistance is required to develop and implement marketing strategies in cooperation with the Lottery at no additional cost to the Lottery.

In order to demonstrate an understanding of Michigan's Charitable pull-tab ticket market at veteran and fraternal clubs, the bidder shall list a minimum of three strategies to maximize ticket sales from pull-tab vending machines.

The contractor must develop and implement the following promotions:

- a. Up to 4,000 flyers with each new game;
- b. Up to 3,000 Michigan bingo ticket catalogs and up to 1,500 annual (club) charity game ticket catalogs for each 12-month period;
- c. Providing the Lottery and all licensed suppliers with game artwork for promotions.
- d. Up to 5,000 posters and/or full-color heavy paper-stock table tents per year for the promotion or instruction of certain games.
- e. Training kits for event and seal card games to be distributed to licensed suppliers and Michigan Lottery staff. Training kits shall minimally include flyers, scripts, and information sheets but may also include extra inserts and POS material.

Up to twenty training kits will be shipped to the Michigan Lottery along with corresponding voided tickets. Upon successful testing of the new game, the Contractor will mail the training kits to approximately 14 licensed suppliers along with their voided cases.

In order to demonstrate pull-tab product expertise and an understanding of Michigan's bingo market, the bidder shall evaluate the current Charitable pull-tab program and produce a case study for a hypothetical \$1.00 bingo event game launch. Additionally, responding bidders are encouraged to provide examples and/or illustrative material of other marketing and product innovations that would increase sales.

C.3 TECHNICAL SUPPORT, CONSULTATION & ASSISTANCE

For the life of the contract and any extensions, the Contractor shall provide technical and product support, at no additional cost to the State, in the form of consultation, answering questions, assistance in the diagnosis of problems, and developing new features requested by the Lottery. Product support will include a dedicated,



full-time account manager to oversee launch strategy and execution, game development and schedules, delivery, and all general aspects of overseeing the pull tab product. The bidder shall describe its plan for providing this support including staff resources.

C.4 CONTRACTOR QUALITY CONTROL

The Contractor shall provide adequate supervision of all phases of ticket design and production to assure all tickets shipped to the State are designed and manufactured in accordance with contract specifications. The Contractor shall implement quality control procedures. These procedures shall include:

- a. The steps taken to minimize the occurrence of defective tickets;
- b. The ability to remove defective tickets from the production run while maintaining continuity of serial numbers; and,
- c. The ability to trace the cause and extent of any problem in ticket production that might be discovered after the tickets have been resold.

C.5 WORKING PAPERS

The Contractor shall work closely with the Lottery in designing each game, providing proof sheets for all designs being developed. The Lottery shall provide written approval of the working papers before ticket manufacturing for each new game begins. The Contractor shall manufacture and deliver the tickets according to the executed working papers. The executed working papers for each game are part of the Contract.

The Contractor will be required to develop working papers under the direction of the Lottery for each game. The working papers shall be in a format provided by the Lottery and include the following items:

- a. Prize Structure
- b. Ticket Specifications
- c. Flare or Seal Card Specifications
- d. Information Sheet Specifications
- e. Flyer Specifications
- f. Serial Numbering
- g. Packaging
- h. Palletizing Instructions
- i. Training Kit Contents
- j. Initial Order Quantity
- k. Delivery schedule
- l. Price of Initial Order
- m. Shipping Instructions
- n. Production Schedule
- o. Approval to Authorize Production
- p. Game Graphics
- q. Insert Samples
- r. Pallet Specifications

**C.6. TRADEMARK AND SERVICE MARK SEARCHES**

Contractor will conduct trademark and service mark searches for all game names not owned by the Contractor at the time of the production of the games used during the term of the Contract and provide to the Lottery with a written legal opinion as to the permissible use of each game name based upon a search of registrations and applications for registration filed with the United States Patent and Trademark office, applicable state agencies and other appropriate sources. New trademarks and service marks developed for the Lottery will be the property of the Lottery and will be registered with the State of Michigan by the contractor in the name of the Michigan Lottery. For any games developed for test purposes, the Contractor will not be required to obtain a trademark registered in the name of the Michigan Lottery until the test period concludes should that game continue to be sold under the Michigan Lottery. For games owned by the Contractor, the Contractor will provide a letter warranting its ownership and granting the Lottery the right to use the game name. Upon approval or denial of trademark, the Contractor shall provide the Lottery with a copy of the signed registration or denial.

C.7. PROPRIETARY AND PATENTED PLAY STYLES

The Contractor will make available for use by the Lottery, at no additional cost, all currently held proprietary and/or patented play styles, copyrights, service marks or trademarks owned by the Contractor. If any proprietary and/or patented play styles, copyrights, service marks or trademarks are developed or acquired by the Contractor during the term of this Contract, then these items also will be made available to the Lottery at no additional cost. The Lottery will have the right to acquire proprietary and/or patented play styles from other sources for incorporation into Charitable pull-tab games produced by the Contractor.

C.8 ARTWORK AND TICKET DESIGN

Art samples will be provided by the Lottery for existing games. All type and artwork reproductions shall be clear and sharp with no broken characters, contain no identifying marks or hairlines and shall be uniform in ink coverage. Working papers shall be drafted for the reproduction of existing games if needed.

New games require complete development of game themes and prize structures.

A Michigan Lottery logo shall appear on the back of each ticket along with language provided by the Lottery. Tickets shall not identify the manufacturer.

Winning combination patterns, winning and non-winning symbols, ticket front art, and ticket back art indicating opening tab perforations shall be developed by the Contractor and included in the working papers.

Any given ticket shall not contain more winning combinations than what is intended for that ticket. Each deal of tickets shall contain the proper number of tickets, the proper ratio of winning to losing tickets, and the proper number of each prize amount as defined by the executed working papers.

Non-winning tickets shall contain a variety of several non-winning patterns of numbers or symbols to maintain the image of randomness in the deal.

Each winning combination of symbols shall be configured at least two different ways throughout the game. Printing plates shall be organized so non-winning tickets are always interspersed among winning tickets on a given plate.

C.9 TICKET PRODUCTION AND DELIVERY TIMELINE

The Contractor shall be able to produce and deliver a shipment of tickets within 45 calendar days from receipt of the executed purchase order and approval of working papers.

C.10 TICKET CONSTRUCTION

The basic ticket construction is 2-ply. The front side of the ticket (side opposite the opening tabs) shall be constructed of a coated board stock. The back side of the ticket shall be mill produced –on .012” carbon black back opaque paper stock. The stock used in the construction of the ticket shall be such that the overall bulk thickness is .024 inch, except as otherwise approved by the Lottery.

Tickets shall be the width and height specified in the working papers.



Concealed numbers, symbols, or other graphics shall not be viewable or determinable from the outside of the ticket using a high-intensity lamp of up to and including 500 watts.

C.11 TICKET PRINTING

The front side of the ticket (the side opposite the opening tabs) and the game play area (play images and captions) shall be multicolored using up to a 5-color process. The back side of the ticket will use up to a 2-color process.

The Contractor shall ensure color consistency from ticket to ticket and from deal to deal so that it is impossible to identify winning tickets due to a difference in color, the appearance, or extraneous marks on the tickets or any other distinguishing characteristics.

C.12 TICKET SEALING AND GLUING

Sealing or gluing the two plies of paper stock required for the construction of the ticket shall occur securely on all four edges of the ticket and between the individual charity game ticket tabs.

It must not be possible to separate the top and bottom layers of the tickets without destroying the ticket validity. Glue must be applied in the register and must not cause interference or difficulty in opening the tabs.

C.13 VENDING

All tickets must be compatible with the ticket dispensing systems currently in the Michigan pull tab market (American Games, Technik, and Arrow) and any reasonable vending device used in the future. Ticket stock may be modified within reason, at the Lottery's discretion during the term of the contract.

Proper vending in varying humidity levels is required. Contractors should take into consideration a seasonal 100% relative humidity level in Michigan.

C.14 SERIAL NUMBERING

Each deal of tickets shall be assigned a unique 9-digit serial number where the first three (3) digits designate the game number. The serial number must be identical for all tickets contained in a single deal. Each deal within the shipment shall be numbered consecutively. There shall be no duplication of serial numbers outside a deal of tickets.

The serial number for each deal shall be attached to the side flap of each box and on the flare or seal card. The serial number shall be printed on the same ply of the ticket that contains the concealed symbols.

Serial number omissions are not allowed.

C.15 DIE-CUT OPENINGS AND PERFORATIONS

Charity game ticket tabs shall be 9/16" X 1-3/8" or other industry standard dimension approved by the Lottery. A tolerance of $\pm 1/16$ " will be allowed.

For any given game, die-cut openings for all tickets shall not vary in size, from deal to deal, or from shipment to shipment. The opening tabs shall be centered top to bottom and side to side on each ticket. Perforations and die-cutting shall allow easy opening while not permitting tickets to be accidentally opened during normal handling.

C.16 TICKET CUTTING

The dimensions shall be in accordance with the measurements provided in the pricing matrix.

For any given game, all tickets shall not vary in size, from ticket to ticket, from deal to deal, or from shipment to shipment. In the cutting of finished tickets, winners and losers shall be cut together so it is not possible to pick out winners from variations in cutting or from edge patterns that are caused from cutting.

C.17 DURABILITY

Tickets shall maintain their original crisp appearance and remain properly sealed during normal storage, handling, and usage for a minimum of two (2) years after Contractor shipment.

**C.18 PRIZE STRUCTURE**

The Contractor shall work with the Lottery in developing a prize structure for each new game. The prize structure shall be designed to achieve the payout percentage prescribed by the Lottery.

C.19 RANDOMIZATION

The Contractor shall implement randomization methods that distribute winning tickets throughout the game so that winning tickets cannot be picked out by their location in a deal or a banded bundle. No less than four (4) points of randomization shall be utilized and shall include:

- a. Printing plates or number scrambler programs used for printing tickets shall be organized so that winning tickets are interspersed randomly among losing tickets;
- b. High tier winners and hold tickets shall be randomly printed on a minimum of four (4) sheets for each deal of tickets; and,
- c. The Contractor shall utilize a minimum of two (2) additional steps that further ensure randomization of the tickets.
- d. Each bundle shall contain a reasonable number of winners in relationship to the winning ticket ratio.

C.20 TICKET BUNDLES

The Contractor shall bundle or wrap tickets into predetermined increments within a deal, unless deal size does not lend itself to traditional packaging. The Lottery and the Contractor shall mutually determine the number of tickets to be included in each bundle which shall be specified in the working papers.

The Contractor shall bundle the tickets using such materials and in such a manner so as to securely hold the tickets during normal handling without creasing or otherwise damaging the tickets. The band shall be easily removed without causing damage to the tickets.

Within each box, a slip of paper shall be enclosed indicating the number of complete bundles, the number of tickets within each bundle, and the number of tickets in the partial bundle, if any.

C.21 PLASTIC BAGS

The Lottery may require that tickets be sealed in a plastic transparent bag designed to tightly contain a row of tickets, as determined by the Lottery.

C.22 FLARE CARD

A flare card shall be added to the outside of each box prior to shrink-wrapping. Flare cards are to be produced according to industry standard, i.e. sized to fit the top of the ticket box; printed on coated .012" SBS stock; and using up to a 5-color process (to match the ticket game).

The flare card will contain the ticket name, prize payout structure, and graphics related to the game. The label(s) containing the serial number and barcode of the corresponding deal(s) shall be adhered to the flare card.

C.23 SEAL CARD

When the game is a seal card game, the Contractor shall produce one seal card for each deal of tickets. The seal card shall contain a minimum of one window that, when removed, displays a winning number or symbol. A seal card for each deal within the box shall be added to the outside of the box in place of a flare card.

Seal cards are to be sized to fit the ticket box cover. The basic seal card construction is 2-ply with the overall bulk thickness ranging from .022 to .026 inch. Concealed numbers or graphics shall not be viewable or determinable from the outside of the seal card using a high-intensity lamp of up to and including 500 watts.

Each seal card shall be printed using up to a 5-color process (to match the ticket game).

Gluing the two plies of paper stock required for the construction of the seal card shall occur securely on all four edges of the seal card and around each window.



For any given game, die-cut windows for all seal cards shall not vary in size, from deal to deal or from shipment to shipment. Perforations on windows shall be constructed in a manner that allows easy opening while not permitting the inadvertent opening of a window as an adjacent window is being opened.

The ties on a die cut window must be of a thickness or strength to hinder “peeking” under the windows and if “peeking” has occurred, it must be readily detectable.

The seal card will contain the ticket name, prize payout structure, and graphics related to the game. The label(s) containing the serial number and barcode of the corresponding deal(s) shall be adhered to the seal card.

The Contractor shall implement a process to ensure the complete randomization of the seal card’s winning numbers or graphics from one seal card to the next.

For the first shipment of a new seal game, the Contractor shall provide the Lottery with up to 100 extra seal cards.

C.24 BAR CODES

The Contractor shall have the capability to produce a barcode, interleaved code 3 of 9, depicting the serial number of the tickets contained in each deal. The Lottery requires the printing of the barcodes on each box of tickets, on the flare or seal card(s) attached to each box of tickets, and on the case labels identifying the deals contained therein.

C.25 INFORMATION SHEET

Information sheets shall be printed similar to the standard within the industry, i.e. sized to fit within the box; generally 8 ½” x 11”, 16 lb. bond paper. It shall contain general information regarding the game: number of tickets, number of winning tickets, prizes, profit, and winning symbol identification. Extra inserts such as an Accountability Form or detailed game instructions may also be required in each box.

C.26 VOIDED TICKETS

For each new seal card or event game, the Contractor may be required to provide up to 250 deals of voided charity game tickets. Approximately 20 deals are to be shipped to the Lottery along with the initial order. Once tested tickets have been approved, the Contractor shall ship remaining voided deals to licensed suppliers. These tickets shall be the same size and conform in all respects to the tickets approved in the working papers except, in place of the serial number, the word “VOID” shall be printed in minimum 14-point font followed by a sequential 3-digit number beginning with 001.

The voided tickets will be in addition to the ordered quantity of tickets. The cost of providing voided tickets will be included in the base price for tickets. The Lottery will not pay directly for voided tickets.

C.27 LOTTERY TICKET TESTING

The Lottery reserves the right to test deals of tickets. The Lottery shall notify the Contractor of any product discovered during this inspection that is not in accordance with the provisions of this Contract or the working papers, including, but not limited to improper shipping; defective printing, gluing, or die cuts; randomization; prize structure; and banding.

If the product tested by the Lottery fails to meet the requirements detailed in this Contract, additional testing may be required and liquidated damages may be assessed.

C.28 DEFECTIVE TICKET PROGRAM AND MONTHLY REPORTING

The Contractor shall be responsible for coordinating the return and credit for all defective deals of tickets. The Contractor shall be required to assign a quality control representative to whom licensed suppliers may contact to report defective tickets and any actual losses incurred by licensed organizations.

The quality control representative is responsible for receiving defective ticket return forms from licensed suppliers; investigating the validity of the reported defects; tracking down potential problems with related tickets; and reporting all, if any, defective tickets for each month to the Lottery. The monthly report must be accompanied by copies of all related ticket return forms and a credit memo for any amounts due to the Lottery for reported defective tickets.

**C.29 BOXES**

Box size is dependent on game design; therefore, actual box dimensions shall be incorporated in the working papers for each game. Boxes are to be constructed of 200# test corrugated material. Boxes are to be fully packed using dividers and fillers where necessary.

Each box shall be sealed so that the box is securely closed and opening can be immediately detected. The warning "Purchaser - Do Not Accept If Seal Is Broken" shall be imprinted on the seal or across the top of each box such that it is legible when the box is sealed. The serial number(s) and barcode(s) shall be adhered to the side of the box of tickets. The game flare card or seal card(s) shall be added to the top of each box. Each box shall be tightly shrink-wrapped with transparent material of sufficient strength, minimum of 80-gauge.

Boxes shall contain no labeling or printing identifying the ticket manufacturer.

The contractor must actively research solutions and provide associated costs for packaging pull-tab tickets that best allows for inventory management by the licensees. Solutions may vary based on number of tickets, printing process, distribution methods, etc.

C.30 CASES

All cases are to be fully packed containing the prescribed number of boxes for a particular game. The case shall be constructed of 200 lb. test corrugated material with a four (4) flap cover. Case dimensions will be dependent upon the box size used in a particular game. For any new games, case weight, fully packed, shall not exceed 45 lbs.

The top and bottom of the case shall be sealed with a 2" width fabric or fiber-reinforced tape with a tensile strength of at least 30 lb./inch of width and bearing no printed information. No staples or glue shall be used. The tape shall not cover labels or handwritten case numbers.

Two 3" by 4" labels, one 10" by 5" label, or other Lottery-approved label shall be securely glued to one end of the case (Attachment 9). Label information shall include: the name of the game, case number, serial number of each of the deals contained within the case and the statement, "THIS CASE CONTAINS MATERIALS THAT ARE REGISTERED BY NUMBER AND WHICH WILL BE VOIDED IF STOLEN". Labels shall be color coded for easy identification of each game as determined by the Lottery. Print on labels must be large enough to be easily readable and shall be approved in advance by the Lottery.

Cases shall contain no labeling or printing identifying the ticket manufacturer.

C.31 PALLET CONSTRUCTION

Tickets shall be shipped to the Lottery by cases stacked on pallets.

Standard size, three runner pallets that are a maximum of 42" wide and 48" long shall be used. A minimum of 4" of fork clearance is required.

Where wooden pallets are used, boards along the top of the pallets shall be a minimum of 3/4" thick. Runner boards shall be a minimum of 4" x 1 1/2" and be spaced a minimum of 14 1/4" apart. Pallets shall be of adequate construction to bear the load and survive transit. Broken or collapsed pallets and pallets with missing boards are not to be used. Shipments on pallets that do not meet these requirements will be rejected.

C.32 PALLET STACKING

Overall loaded pallet height from the ground is not to exceed 60", and gross weight of loaded pallets is not to exceed 2,000 lbs. The number of cases stacked on a pallet will vary depending upon the case size, weight, and pallet configuration.

A pallet configuration diagram shall be included in the working papers for each game. The cases of tickets shall be stacked on the pallets, side to side, in descending case number order with case labels facing outward. The highest numbered case is to be placed at the back left corner of the pallet with descending numbered cases placed from right to left and back to front until a complete layer of cases has been placed on the pallet. A sheet of cardboard or chipboard shall be placed on top of each layer except the top layer. This sheet will not extend beyond the outer edges of the cases in each layer. The same loading pattern is to be repeated for each layer of cases.



Each of the four (4) corners of the pallet load of cases shall be protected by corner covers. The top front and back edges of the stack shall also be protected by corner covers. Corner covers shall be constructed of 2" x 2" x 42" 3-layer, laminated pressboard with a thickness of .090" or a comparable stock. The stack shall be securely bound with plastic strapping to prevent shifting or tipping.

Each pallet load of cases shall be securely covered and attached to the pallet by clear spin wrapping.

C.33 PALLET LABELS

A pallet label must be affixed to each pallet load of cases. The label shall show the game name, game number, the lowest and highest serial numbers loaded on the pallet, the total number of cases loaded on the pallet, and the pallet number. Pallets will be numbered one (1) through the highest pallet number for each game. Where more than one game is included in the shipment, each game shall have its own set of pallet numbers. The pallet label should be affixed to the shrink-wrap on the front of the pallet (the same side as the lowest numbered case).

C.34 TICKET LOADING AND DELIVERY

Pallets of finished tickets shall be loaded with the lowest numbered pallet at the "nose" or forward end of the cargo bay and the highest numbered pallet at the rear end of the cargo area, so that the highest numbered pallet is the first to be off-loaded. A minimum of five (5) feet shall be left between the last pallet loaded and the cargo doors at the rear of the vehicle.

The Contractor shall provide shipment notification to the Lottery at least one (1) week prior to the scheduled delivery date. The notification must include:

- a. Shipment date;
- b. Arrival date;
- c. Game name;
- d. Number of deals, cases, and pallets;
- e. Delivery instructions as they will appear on the bill of lading, including the Lottery warehouse contact names and phone numbers; and,
- f. A diagram mapping out the location of the pallets within the trailer. If more than one (1) game is included in the shipment, the diagram must indicate the game name for each.

The Contractor shall instruct the driver to deliver shipment between 8 a.m. and 3 p.m. on the scheduled day, unless otherwise requested by the Lottery. The Contractor shall instruct the shipper to contact the Lottery the day prior to delivery with estimated time of arrival. The Contractor shall also instruct the shipper to contact the Contractor if the driver will be unable to make the requested delivery date.

The Contractor shall have tickets delivered to the Lottery by the date defined in the purchase order for each game, unless otherwise authorized by the Lottery.

C.35 F.O.B. POINT

Prices for tickets are "F.O.B. Delivered" with transportation charges prepaid on all orders shipped to Lansing, Michigan.

C.36 SHIPPING DOCUMENTS

The following items shall be included with each shipment of tickets:

- a. A bill of lading shall be delivered to the Lottery listing the total number of cases. This report shall include driver instructions and the Lottery warehouse phone number.
- b. A computer generated manifest printed on 8 ½" x 11" paper is required listing the game name(s), pallet numbers, case numbers for each pallet, and serial numbers of the deals contained within each case.

C.37 RIGHT OF INSPECTION

The Contractor shall allow the Lottery the right to inspect the Contractor's printing and manufacturing facilities, new technologies and procedures, all phases of ticket production, and all aspects of the disaster recovery plan. The



contractor shall provide necessary transportation and accommodation costs for up to two (2) Lottery staff to inspect the contractor's facilities once per year for each year of the contract. Transportation and accommodations shall be provided at no additional cost to the Lottery.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

Contract Elements

The terms and conditions of this Contract are as set forth in the RFP and in the Contractor's response thereto (the "Proposal"), which are hereby incorporated herein by reference and made part hereof. Any provisions herein modifying section of the RFP or Proposal are strictly limited to the specific reference and do not waive requirements or provisions of those documents unless specifically identified and referenced in the Contract. In the event of any inconsistency between the RFP, the Proposal and this Contract, the documents will be interpreted in the following order of priority:

- This Contract
- The RFP
- The Proposal

2.001 Contract Term

This Contract is for a period of five (5) years beginning January 1, 2009 through December 31, 2013. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to three (3) additional one (1) year periods.

2.003 Legal Effect

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

2.006 Order of Precedence

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



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

2.007 Headings

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

2.008 Form, Function & Utility – Deleted, Not Applicable

2.009 Reformation and Severability

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

2.010 Consents and Approvals

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

2.011 No Waiver of Default

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

2.012 Survival

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

2.020 Contract Administration

2.021 Issuing Office

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

Joan Bosheff
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Telephone: (517) 373-7374
Email: bosheffj@michigan.gov

**2.022 Contract Compliance Inspector (CCI)**

After DMB-PurchOps receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with the Michigan Lottery, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term.

However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DMB Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Deputy Commissioner for Administration
Michigan Lottery
101 E. Hillsdale St.
Lansing, Mi. 48913

2.023 Project Managers

The following individuals will oversee the different components of the contract:

Charitable Gaming Pull-Tab Ticket Printing
Charitable Pull-Tab Ticket Manager
Michigan Lottery
101 E. Hillsdale St.
Lansing, Mi. 48913

2.024 Change Requests

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

If the Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
- (b) No proposed Change must be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

**2.025 Notices**

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

State:

State of Michigan

Purchasing Operations

Attention: Joan Bosheff

P.O. Box 30026

530 West Allegan Street

Lansing, Michigan 48909

Contractor:

International Gamco, Inc.

Attention: Phillip Glassman

9335 North 48th Street

Omaha, NE 68152-1541

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

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

2.029 Assignments

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

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



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

2.030 General Provisions

2.031 Media Releases

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

2.032 Contract Distribution

Purchasing Operations retains the sole right of Contract distribution unless other arrangements are authorized by Purchasing Operations.

2.033 Permits

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

2.034 Website Incorporation

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

2.035 Future Bidding Preclusion

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

2.036 Freedom of Information

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

2.037 Disaster Recovery

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

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

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

**2.042 Adjustments for Reductions in Scope of Services/Deliverables**

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

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General

- (a) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.
- (b) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State.
- (c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (d) All invoices should reflect actual work done. Lottery will only be liable for payment for tickets after delivery is made to the appropriate warehouse. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

2.045 Pro-ratio – Reserved, Not Applicable**2.046 Antitrust Assignment**

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

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



2.050 Taxes

2.051 Employment Taxes

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

2.052 Sales and Use Taxes

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

2.060 Contract Management

2.061 Contractor Personnel Qualifications

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

2.062 Contractor Key Personnel

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



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

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

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

2.064 Contractor Personnel Location – Deleted, Not applicable

2.065 Contractor Identification

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

2.066 Cooperation with Third Parties

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

2.067 Contract Management Responsibilities

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve subcontractors and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the State, in writing, prior to such change.

2.068 Contractor Return of State Equipment/Resources – Deleted, Not Applicable

2.069 Contractor Participation in Lottery Games

No officer or employee of the contractor, identified in the vendor response, or that officer's or employee's spouse, child, stepchild, brother, sister, stepsister, parent, or stepparent, who resides in the household of such officer or employee shall purchase Michigan Lottery instant or pull-tab game tickets or be paid a prize from any Michigan Lottery instant or pull-tab game ticket.

This section shall apply to all contractor and subcontractor employees. The contractor shall ensure that the above requirements are made known to each officer and employee of the contractor and any subcontractor.

This restriction applies only for the life of the contract.



2.070 Subcontracting by Contractor

2.071 Contractor full Responsibility

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

2.072 State Consent to delegation

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

2.073 Subcontractor bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment – Deleted, Not Applicable

2.082 Facilities

The Contractor must have reasonable access to, and unless agreed otherwise by the parties in writing must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the Contractor in the course of providing the Services. Contractor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.



2.090 Security

2.091 Background Checks

The Lottery may initiate investigations into the backgrounds of any officers, principals, investors, owners, subcontractors, employees, or any other associates of the Bidder or Contractor it deems appropriate. Such background investigations may include fingerprint identification by Michigan State Police, Federal Bureau of Investigation, and any other appropriate public or private agencies selected by the Lottery. Any costs of fingerprinting are the responsibility of the Contractor.

Personnel who will be performing services under the Contract and as determined by the Lottery will be required to undergo a background investigation by the Lottery. This Lottery background check does not relieve the Contractor of their responsibility to conduct their own background investigations. After an employee being considered for work on the Lottery contract has been cleared by the Contractor's background checks, the person shall be submitted to Lottery for clearance. The results of the background check by the Contractor shall be shared with Lottery.

The Contractor shall agree, in writing, to cooperate with such investigations, and to instruct its employees to cooperate. The Lottery may terminate the Contract or require the Contractor to remove an employee from the Lottery project based upon adverse results of background checks if the Lottery determines that its integrity, security, or goodwill may be in jeopardy. The Lottery may disapprove any employee or subcontractor of the Contractor who is assigned to this project, either at contract inception or at any time during the term of the contract.

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

2.092 Security Breach Notification

If the Contractor breaches any sections of the contract pertaining to security, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the Director of Security and the IT Security Officer of the Michigan Lottery, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within one (1) day of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements – Deleted, Not Applicable

2.100 Confidentiality

2.101 Confidentiality

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



Any information or data in a bidder's proposal, which the bidder claims is proprietary and confidential and should not be disclosed to third parties must be clearly identified in the proposal (each page must be marked as "Proprietary and Confidential"). In addition, it is incumbent on the bidder to identify those portions of their bid in a transmittal letter attached to the proposal. The claimed exemption from public disclosure must be supported by specific reference to Michigan public records laws.

Bidder price proposals cannot be held confidential.

2.102 Protection and Destruction of Confidential Information

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

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

2.103 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.080** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.080** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights

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

2.105 Respective Obligations

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



2.110 Records and Inspections

2.111 Inspection of Work Performed

The State's authorized representatives must at all reasonable times and with 24 hour prior request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 24 hour prior notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

2.112 Examination of Records

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

2.113 Retention of Records

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

2.114 Audit Requirements and Resolution

The Contractor is required to provide the Lottery with results of a SAS70 (or international equivalent), type II audit annually. Audit shall be performed by a qualified CPA firm, paid for at Contractor's expense. The Lottery reserves the right to approve CPA firm performing the audit. If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report. Failure to properly address audit findings may be cause for termination of the contract. The SAS70 audit will be waived for a secondary contract valued at less than \$200,000.

2.115 Errors

- (a) If an audit demonstrates any errors in the documents provided to the State, then the amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the contract, whichever is earlier.
- (b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than 10%, then the Contractor must pay all of the reasonable costs of the audit.



2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.



(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.

(m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.

(n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

2.122 Warranty of Merchantability – Deleted, Not Applicable

2.123 Warranty of Fitness for a Particular Purpose – Deleted, Not Applicable

2.124 Warranty of Title

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

2.125 Equipment Warranty – Deleted, Not Applicable

2.126 Equipment to be New – Deleted, Not Applicable

2.127 Prohibited Products – Deleted, Not Applicable

2.128 Consequences For Breach

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

2.130 Insurance

2.131 Liability Insurance

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

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

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



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

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

See www.michigan.gov/dleg.

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

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

- 1. Commercial General Liability with the following minimum coverage:

- \$2,000,000 General Aggregate Limit other than Products/Completed Operations
- \$2,000,000 Products/Completed Operations Aggregate Limit
- \$1,000,000 Personal & Advertising Injury Limit
- \$1,000,000 Each Occurrence Limit

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

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

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

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

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

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

- 4. Employers liability insurance with the following minimum limits:

- \$100,000 each accident
- \$100,000 each employee by disease
- \$500,000 aggregate disease



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

2.132 Subcontractor Insurance Coverage

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

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB-PurchOps, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the “Certificates”). The Certificate must be on the standard “accord” form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer’s attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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



companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

2.134 Game Insurance—Deleted, Not Applicable

2.140 Indemnification

2.141 General Indemnification

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

2.142 Code Indemnification

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

2.143 Employee Indemnification

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

2.144 Patent/Copyright Infringement Indemnification

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

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

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



2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

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

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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

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

**2.152 Termination for Cause**

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

2.153 Termination for Convenience

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

2.154 Termination for Non-Appropriation

- (a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State must terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.



(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.155 Termination for Criminal Conviction

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

2.156 Termination for Approvals Rescinded

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

2.157 Rights and Obligations upon Termination

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

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

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

2.158 Reservation of Rights

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



2.160 Termination by Contractor

2.161 Termination by Contractor

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

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

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed ninety (90) days. These efforts must include, but are not limited to, those listed in **Sections 2.141, 2.142, 2.143, 2.144, and 2.145.**

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

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

2.174 Contractor Software Transition

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

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from



transition operations) at the rates agreed upon by the State. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

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

2.180 Stop Work

2.181 Stop Work Orders

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

2.182 Cancellation or Expiration of Stop Work Order

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

2.183 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.150**.

2.190 Dispute Resolution

2.191 In General

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



2.192 Informal Dispute Resolution

- (a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:
- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
 - (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
 - (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
 - (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.
- (b) This Section will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.163**.
- (c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

2.193 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.190** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.194 Continued Performance

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

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

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



2.202 Unfair Labor Practices

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

2.203 Workplace Safety and Discriminatory Harassment

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

2.210 Governing Law

2.211 Governing Law

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

2.212 Compliance with Laws

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

2.213 Jurisdiction

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

2.220 Limitation of Liability

2.221 Limitation of Liability

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings



with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

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

2.232 Call Center Disclosure

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

2.233 Bankruptcy

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

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

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



2.240 Performance

2.241 Time of Performance

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.211(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

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

2.243 Liquidated Damages

It must be understood and agreed that quality, accuracy, security, accountability and timeliness are of the essence with respect to this contract. If the Contractor does not properly perform the services required in this RFP, or the resulting contract, damage to the Lottery will result. The liquidated damage figures herein represent a good faith effort to quantify the range of harm that could reasonably be anticipated.

For all types of performance failures listed herein, the Lottery shall allow the Contractor to develop and implement a cure of the defect that is acceptable to the Lottery. If a cure cannot be developed that is acceptable to the Lottery, then the Lottery, in its sole discretion, may elect to assess liquidated damages and withhold such damages from scheduled payments to the Contractor.

All assessments of liquidated damages shall be made by the Commissioner. Upon determination that liquidated damages are to be assessed, the Lottery shall notify the Contractor of the assessment in writing.

Defective or Non-Conforming Tickets

For the purposes of determining non-conforming ticket damages, if a single ticket in any pack(s) fails to conform to specifications, then the entire pack(s) of tickets shall be deemed to be non-conforming.

If the result of a test or inspection by the Lottery or one of its representatives establishes that any tickets delivered are not in strict accordance with the quality standards of the contract and the requirements of the executed game specifications, the Lottery may elect one or more of the following options:

- (a) The Contractor, at no additional cost to the Lottery, shall issue an equal number of replacement tickets for the game or a substitution of the game within a time frame acceptable to the Lottery.
- (b) The Contractor shall pay 25% of the retail value for each non-conforming pack yet to be distributed to a retailer.
- (c) For omitted packs or for packs that contain a misprinted ticket, the Contractor shall pay 25% of the retail value of each pack plus the full value of any winning tickets the Lottery becomes obligated to pay as a result of a misprinted, omitted, or otherwise non-conforming ticket that is distributed to a retailer.

Over-Redemption

- (a) If over-redemption occurs, the Contractor shall reimburse the Lottery for all prize liabilities incurred that are attributable to over-redemption in addition to any damages with respect to the delivery of non-conforming tickets.

**Breach of Security**

- (a) Up to \$10,000 for each person and for each incident where the Contractor fails to preclude persons who are not authorized by the Commissioner from accessing facilities, equipment and information utilized in the production of tickets.
- (b) Up to \$10,000 for each failure to preclude the unauthorized regeneration of ticket data.
- (c) Up to \$1,000 per day until correctly reported for failure to report a breach of security as detailed in Sections 1.0708 and 2.090.

Other Qualifying Events

- (a) Up to \$25,000 for each incident where the Contractor modifies any materials, inks, thicknesses, processes, packaging, and/or equipment used in manufacturing tickets without the prior, written approval of the Lottery. Additional liquidated damages of up to \$5,000 per day may be assessed until the unauthorized modification is discontinued and the process is restored to its previous operating state at the contractor's expense.
- (b) Up to \$10,000 for each calendar day for which ticket inventory is not delivered as per the date specified in the executed game specifications. In no event shall liquidated damages accrue for more than 45 calendar days, or total more than \$450,000 per game. In addition, late delivery may be considered a material breach of the contract.
- (c) Up to \$10,000 for each calendar day for which any required game file (validation files, inventory file) or report (end of production prize structure, shipping documents) is not delivered as per the date specified in the executed game specifications, or for each calendar date until corrected for any required game file or report that is received with erroneous or incomplete data.
- (d) Up to \$500 for each calendar day for which an end of distribution void validation file, test file, or required report is delivered late.
- (e) The Lottery will periodically meet with the Contractor to identify action items for quality improvement. In the event the Contractor fails to progress on quality action items according to a schedule determined in concert with the Lottery, the Lottery may assess up to \$5,000 per day for each action item that has not been implemented on its agreed-upon schedule.
- (f) The Contractor shall address to the Lottery's satisfaction all recommendations made as a result of a system audit as specified in Section 2.114. If audit recommendations are not enacted to the Lottery's satisfaction within sixty (60) calendar days of notification, unless specifically exempted by the Commissioner, the Lottery may assess up to \$5,000 at the end of the initial sixty (60) day period and an additional \$5,000 for each subsequent thirty (30) day period, or any portion thereof, for which the Contractor audit has not been corrected or addressed to the Lottery's satisfaction.

Charitable Pull-tab tickets shall be subject to the following Liquidated Damages. Each deal of tickets not manufactured in accordance with the quality standards specified in this contract or in the working papers are considered defective.

1. For each shipment of tickets that have been found to have excessive defective tickets or the testing results indicate a defective problem that could potentially affect a significant percentage of the shipment, the shipment may be considered defective; therefore (i) the Contractor may replace defective deals at the Contractor's expense; (ii) the Contractor must arrange for the shipment or partial shipment of defective tickets to be returned or disposed of at the Contractor's expense; (iii) the Lottery may assess damages equal to the replacement cost of the shipment of tickets or individual deals of tickets plus up to \$50 per deal.
2. For each deal of tickets shipped by the Contractor that is lost or damaged in transit, the Lottery may assess damages equal to the replacement cost of the deal of tickets.



3. For each defective deal of tickets, organization loss may be assessed. (Organization loss occurs when prizes paid exceeds sales from the defective tickets.)
4. When a defective deal hasn't been identified until after it has been shipped to the supplier, the Contractor is still liable for liquidated damages. The Contractor may also be assessed additional shipping charges and handling fees.
5. Under Option 1 (Manufacturer ships to Lottery), when a shipment does not arrive on the scheduled delivery date and when the delayed shipment results in lost sales, the manufacturer may be liable for up to the estimated lost revenue for each day the shipment is delayed.
6. Under Option 2 (Manufacturer warehouses tickets and sends to licensed suppliers), if the ticket ordering or distribution system suffers downtime or degraded performance that prevents the taking of orders and/or the shipment of orders during the hours and at the times specified elsewhere in this document, and should the downtime result in the delay of orders for a day or more, the Contractor shall pay the cost of shipping the orders via next day delivery.

2.244 Excusable Failure

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

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

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

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



2.250 Approval of Deliverables

2.251 Delivery Responsibilities

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

- (a) Shipment responsibilities - Services performed/Deliverables provided under this Contract must be delivered "F.O.B. Destination." The Contractor must have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.
- (b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.
- (c) Damage Disputes - At the time of delivery to State Locations, the State or its designated representative must examine all packages. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage.

2.252 Delivery of Deliverables

Where applicable, the Statements of Work/POs contain lists of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable"), a good ("Physical Deliverable") or a Service. All Deliverables must be completed and delivered for State review and written approval and, where applicable, installed according to the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

2.253 Testing

- (a) Before delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and conforms with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor must certify to the State that (1) it has performed the quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during the quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.
- (b) If a Deliverable includes installation at a State Location, then Contractor must (1) perform any applicable testing, (2) correct all material deficiencies discovered during the quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State is entitled to observe or otherwise participate in testing.

2.254 Approval of Deliverables, In General

- (a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.
- (b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.
- (c) Before commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the



Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor according to **Section 2.223**.

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

(e) If, after three opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure the breach. Notwithstanding the foregoing, the State cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.

2.255 Process For Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (and if the Statement of Work does not state the State Review Period, it is by default five Business Days for Written Deliverables of 100 pages or less and 10 Business Days for Written Deliverables of more than 100 pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable before its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State notifies the Contractor about deficiencies, the Contractor will correct the described deficiencies and within 30 Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.256 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.



2.257 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 continuous Business Days for a Physical Deliverable). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from the Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.258 Final Acceptance

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.260 Ownership

2.261 Ownership of Work Product by State

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

2.262 Vesting of Rights

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

2.263 Rights in Data

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

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



2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

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

2.272 Acceptable Use Policy

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

2.273 Systems Changes

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

2.280 Extended Purchasing- Deleted, Not Applicable

2.282 State Employee Purchases – Deleted, Not Applicable

2.290 Environmental Provision

2.291 Environmental Provision

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

Environmental Performance:

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

2.292 Testimony in Legal Actions

If the testimony of the Contractor is required in any criminal, civil, or administrative action involving the Lottery's ticket games, the Contractor shall provide, at no expense to the Lottery, the State of Michigan, or the prosecuting attorney, all persons and materials necessary to present such testimony or evidence.



CHARITABLE PULL-TABS PRICING

1. BASE TICKET PRICING

The matrix below provides the cost per thousand tickets on recycled paper stock. Base price includes all required elements, goods and services described in this Contract. Quantities greater than 6 million and intermediate quantities will be determined by interpolation.

Item	Required Items	Order Qty (in millions)	100k -2 mm	2mm-3mm	3mm-4mm	4mm-5mm	5mm+
Item	Required Items	Order Qty (in Millions)	100k- 2MM	2MM- 3MM	3MM- 4MM	4MM- 5MM	5MM+
1	2-9/16 x 1-7/8" with up to 3 windows	Cost/TH:	\$12.60	\$12.25	\$11.90	\$11.55	\$11.20
2	3-7/8 x 1-7/8" with up to 5 windows	Cost/TH:	\$15.25	\$14.85	\$14.45	\$14.05	\$13.65
3	2-9/16 x 1-7/8" with up to 3 windows PLUS Seal Card	Cost/TH:	\$13.35	\$13.00	\$12.65	\$12.30	\$11.95
4	3-7/8 x 1-7/8" with up to 5 windows PLUS Seal Card	Cost/TH:	\$16.00	\$15.60	\$15.20	\$14.80	\$14.40

Set-up for initial run—add \$3500.00 per game. *Gamco agrees to waive set-up charges on the Lottery’s existing games.*

Gamco can print (gang) multiple games on a sheet, printing two, three or possibly four games up on the same sheet at only a nominal increase in set-up charges. For example, two new games each having a one million quantity and running separately would each have the 1 million ticket price and \$3500 per game for set-up charges. The same two games, if ganged together, would be priced at the two million price, and set-up charges would be \$4500 total.

Credit for eliminating banding or bundling tickets: \$1.35 per thousand
 Add on for full aqueous coating on ticket fronts: \$0.50 per thousand

2. OTHER TICKET PRICING

Bingo Event tickets: add \$1.50 per thousand tickets to prices listed above.
 Bingo Board tickets: add \$3.00 per thousand tickets to prices listed above.
 V2 Video Verifier V-Tab: add \$2.00 per thousand tickets to prices listed above.



Appendix A

IT SECURITY POLICIES

In Support of Michigan Lottery Business and Information

1. Every user that supports Michigan Lottery (Lottery) business functions shall have a user-ID that uniquely identifies that user. The unique user-ID shall be used as the user's identifier in every Lottery information system accessed.
2. Lottery user identifications must be used only by the assigned user.
3. All information processing and transmittal actions shall be traceable to an individual and unique user-ID.
4. Appropriate use of any approved authentication mechanism is required. Creating unauthorized links to other systems, bypassing authentication mechanisms, circumventing data access control procedures or otherwise jeopardizing the security of any component within the Lottery or State of Michigan networks is prohibited.
5. Privacy of any authentication mechanism, method, or procedure shall be maintained. Any personal identification number (PIN), password, or other secret identifier that is used for authentication shall not be shared with any other user (except initial or reset passwords), posted on any machine or hardware token, or made obvious to any other person.
6. The Contractor shall comply with Lottery password complexity rules:
 - a. All passwords must have a minimum of eight (8) characters. If the system cannot accommodate eight characters, the maximum number of characters the system allows shall be used.
 - b. All user-chosen passwords will begin and end with an alphabetic character. The alphabetic characters used in a password must include upper and lower case (e.g., a-z, A-Z).
 - c. At least one numeric or special character must be included within the password (e.g., 0-9 and/or !@#%&* ()_+|~-=\` { } [] : " ; ' < > ? , . /).
7. Login to any Lottery information system requires the user to authenticate via approved authentication method (e.g., strong password, biometric authentication).
8. All user-level and system-level passwords for Lottery systems shall be changed at least every ninety (90) days. For critical or sensitive resources, the change interval shall be at least every sixty (60) days.
9. Default credentials (usernames and passwords) in network equipment (e.g., routers, switches, appliances) shall be changed prior to implementation. Passwords must comply with Lottery password complexity rules (see #6 above).
10. Passwords shall be maintained in unreadable format (e.g., encrypted, hash function) when held in electronic storage for any significant period of time.
11. Application passwords shall not be stored in clear text or any reversible form within application code.
12. Passwords for Lottery systems that are assigned to Contractor users must be distributed in a discreet manner. The user shall change an initial or reset password upon first login to a computer system storing Lottery information.
13. Data owned, used, created, or maintained for the Bureau of State Lottery shall be classified into one of the following three (3) categories:
 - a. Public - applies to information that is available to the general public and may be intended for distribution outside the Bureau of State Lottery.



- b. Official Use Only – applies to sensitive information that must be guarded due to proprietary, ethical, or privacy considerations. Official Use Only data is information that is intended for internal use to Lottery employees or business partners who have a legitimate purpose for accessing such data.
 - c. Confidential – applies to information that is protected by statutes, regulations, Lottery policies or contractual language.
14. Data that falls under the categories of: accounting information, social security numbers, credit card numbers, Federal Employer Identification Numbers, bank account information, player/winner identifying or personal information, security vulnerabilities, security algorithms, ticket randomization information, passwords/PINs, ticket control numbers, ticket validation information, or any information that may disclose the location of winning tickets, shall default to a Confidential classification.
 15. Each sensitivity classification shall have separate handling requirements and procedures for how that data is accessed, used, and destroyed.
 16. Information shall be consistently protected according to its classification throughout its life cycle, from its origination to its destruction.
 17. Information shall be protected in a manner commensurate with its sensitivity, regardless of where it resides, what form it takes, what technology is used to handle it, or what purpose(s) it serves. Appropriate access control measures shall be used to protect and keep private any confidential or personal identifying information.
 18. The Contractor is responsible for the security of any computer account set up to access Lottery information and shall be held accountable for any activity that takes place in these accounts. Any discovered incident or attempted violation of system security must be reported immediately to the Lottery IT Security Officer.
 19. Lottery information that has been designated as Confidential shall not be removed or transmitted from the Contractor work premises without written permission from the Lottery IT Security Officer.
 20. All Contractor users that have Lottery information on any mobile device (e.g., laptop, PDA) are required to protect IT equipment in their possession from theft or information disclosure. Confidential information on mobile devices must be encrypted.
 21. Any person connected to the Lottery computer system shall not leave their computer (PC), workstation, or terminal unattended without first logging-out or locking the workstation. Computer systems accessing Lottery information shall not be unattended without activated access controls.
 22. Access granted to Lottery information systems shall be subject to verification of a person, machine, or software identity credentials.
 23. Users of the Contractor shall not attempt to obtain access to systems that house Lottery information for which proper authorization has not been granted.
 24. The computer and data communications system privileges of all Contractor users, system services, and programs that support the Lottery shall be restricted based on the least privileged security principle that grants access to systems based on only those rights necessary to perform Lottery work assignments and job functions
 25. Review and revision of authorizations shall occur whenever personnel, position description, or business responsibility changes take place and an audit trail shall be produced. Access to Lottery information or information resources shall be managed, controlled, and periodically reviewed and audited to ensure only authorized users or systems gain access based on the specific privileges granted.
 26. Privileges shall be established such that system users are not able to modify Lottery production data or business processes in an unrestricted manner. Modifications to production data or business processes require a controlled process approved by Lottery management.



27. Lottery's management reserves the right to revoke the privileges of any Contractor user at any time if conduct interferes with the normal and proper operation of Lottery's information systems.
28. Access to Lottery information or information resources shall be protected through appropriate access controls commensurate with the criticality or confidentiality associated with that resource.
29. All Lottery information system privileges shall be promptly terminated, not to exceed 12 hours, from the time that a worker ceases to provide services to the Lottery. Contractor users that have privileged access (e.g., administrators) shall be immediately terminated at the time that a worker ceases to provide services to the Lottery.
30. Lottery information systems shall be sufficiently secured and configured to prevent unauthorized access to information, applications, utilities, operating system files, or any other information resource.
31. All server resident files and databases for the Lottery computer information systems shall be backed up according to an approved and documented backup and file retention schedule.
32. Backup files shall be tested periodically to ensure reliability and functionality. Confidential data on backup files must be encrypted.
33. File and database back-ups shall be rotated to a secure off-site location on a scheduled basis.
34. A disaster recovery plan shall be developed and maintained that ensures that the computing infrastructure which supports critical business activities will be restored in accordance with the requirements of Lottery business functions and legal mandates.
35. Disaster recovery plans shall be analyzed on an ongoing basis to ensure alignment with Lottery's current business objectives and requirements.
36. Disaster recovery plans shall be tested at least semi-annually. Testing standards and objectives shall be developed for testing the disaster recovery plans. The test results shall be documented and provided to the Lottery. The disaster recovery plan shall be updated as needed.
37. Lottery data that is designated as "confidential" (e.g., SSN, FEIN, credit card numbers, etc.) shall be sent in encrypted format and digitally signed when transmitted across public network (e.g., Internet) or via wireless transmission (e.g., VSAT).
38. Lottery data that is designated as "confidential" shall be stored in encrypted format when it resides on a laptop computer or any mobile device.
39. Encryption strength shall be a minimum of 128-bit.
40. Encryption keys that are used to encrypt other keys shall not be used to encrypt data. Data encryption keys and key encryption keys shall be kept separate and both shall be stored in encrypted form. The encryption of keys shall be performed with a stronger algorithm than is used to encrypt other sensitive data protected by encryption.
41. Proven, standard algorithms shall be used as the basis for encryption technologies and proven, standard message digest hash algorithms shall be used as the basis for creating and verifying a digital signature or file integrity.
42. IT security functionality shall be developed in conjunction with all other system functionality. Security requirements must be considered and addressed in all phases of development (including system modification) or acquisition of new information processing systems.



43. The identification of vulnerabilities and the selection and implementation of safeguards shall continue as a Lottery system progresses through the phases of the life cycle, including after the system has been released into production. If changes are made to a Lottery application or system that affects the types of security controls that are needed, then the security controls shall be updated to mitigate any risks identified.
44. Effective and appropriate change management controls (e.g., SEI CMMI) shall be used through all phases of the development life cycle.
45. Risk assessments of gaming and IT systems supporting Lottery (e.g., hardware, software, firmware) must be conducted annually to identify potential security threats to those resources and appropriate safeguards must be put in place to protect those resources.



IT SECURITY GLOSSARY of TERMS

Access Control(s) are mechanisms (logical and physical) to prevent unauthorized access to information, applications, utilities, operating system files, or any other information resource.

Account is a combination of a username and password that allows the user to log on to a network, computer system, or application.

Administrative User is a user with higher privileges assigned to supervise all or a portion of an application/system.

Algorithm is a step-by-step standardized procedure. It is generally a recursive computational procedure for solving a problem in a finite number of steps.

Audit Trail is a chronological record of system activities that is sufficient to enable the reconstruction, reviewing and examination of the sequence of environments and activities surrounding or leading to an operation, a procedure, or an event in a transaction from its inception to final results.

Authenticate is to verify the identity of a user, device, or other entity in a computer system, often as a prerequisite to allowing access to resources in a system. (2) To verify the integrity of data that have been stored, transmitted, or otherwise exposed to possible unauthorized modification.

Authenticated User is a user who has accessed an application/system with a valid identifier and authentication combination.

Authorization is the granting of access rights to a user, program, or process.

Biometric devices are security devices that verify personal characteristics such as fingerprints, hand size, signatures, voiceprints, or iris identification for authentication to the access control system.

Data is information with a specific physical representation. Data can exist in a variety of forms -- as numbers or [text](#) on pieces of paper, as [bits](#) and [bytes stored](#) in electronic computer [memory](#), or as facts stored in a person's mind.

Data Integrity is the property that data meet an a priori expectation of quality.

Data Owner is usually a member of senior management of an organization that is ultimately responsible for ensuring the protection and use of the organization's data.

Development Life Cycle is a formal process to ensure that projects are developed in a consistent and uniform manner. The process generally includes five main phases: analysis, design, development, implementation, and maintenance.

Digital Signature is an encrypted message digest which is appended to a plaintext or encrypted message to verify the identity of the sender. The signature is encrypted with the user's private key and can only be decrypted with the corresponding public key.

Disaster Recovery (DR) is a coordinated activity to enable the recovery of IT/business systems due to a disruption. DR can be achieved by restoring IT/business operations at an alternate location, recovering IT/business operations using alternate equipment, and/or performing some or all of the affected business processes using manual methods.

Encryption is the transformation of plaintext (also called cleartext or that which is in an understandable format) into ciphertext (unreadable format). Encryption is accomplished using an algorithm (set of mathematical functions) and an encryption "key" (secret sequence of bits and instructions).



Hardware are the physical or mechanical devices that comprise a computer system, such as the central processing unit, monitor, keyboard, and mouse, as well as other equipment like printers and speakers. The physical components of a computing system, as contrasted to software -- the logical instructions that manipulate the hardware and work on the data.

Incident is an event that has caused or has the potential to cause damage to an organization's business systems, facilities, or personnel. This includes unauthorized disclosure of confidential information.

Least Privilege This principle requires that each subject in a system be granted the most restrictive set of privileges (or lowest clearance) needed for the performance of authorized tasks. The application of this principle limits the damage that can result from accident, error, or unauthorized use.

Message Digest Hash is a checksum confirming that the information has remained unchanged by computing a hash algorithm with the information after it is received. A hash function is a one-way operation changing any length of information string into a shorter one with a fixed length so that no two strings of information result in the same hash value. The resulting hash value is then compared to the hash value sent with the information. If the two values match, this result suggests that the information has not been changed; therefore, its integrity may be trusted.

Risk Assessment/Analysis is a method of identifying risks and determining the possible damage that could be caused in order to justify security safeguards. The 3 main goals are: identify risks, quantify the impact of the potential threats and provide an economic balance between the impact of risk and the cost of the safeguard.

Safeguard is a countermeasure that operates as a protection mechanism to a threat.

Software is any data, information, designs, or ideas, which were, are, or will become, computer files, programs, systems of programs, or related input or output data. It may be recorded in any form, including electronically, magnetically, optically, or on paper, and may or may not be located inside a computer system

Unauthorized access is gaining access into any computer, network, storage medium, system, program, file, user area, or other private repository, without the express permission of the owner. Unauthorized access is the same as theft.