

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

September 15, 2011

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B6200377
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR		TELEPHONE (913) 393 3208
Wright Express Financial Services Corporation Fleet Fueling PO Box 6293 Carol Stream, IL 60197-2934		Denise Baumgart
Contract Administrator: David F. Ancell Fuel Card Services - Statewide		BUYER (517) 241-1218 Brandon Samuel
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: December 31, 2011		
TERMS	N/A	SHIPMENT
		N/A
F.O.B.	N/A	SHIPPED FROM
		N/A
MINIMUM DELIVERY REQUIREMENTS		
N/A		

THIS CONTRACT IS EXTENDED LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Effective October 1, 2011, this Contract is hereby EXTENDED through December 31, 2011. The buyer is CHANGED to Brandon Samuel.

All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per request of DTMB, agency services and approved by DTMB/Purchasing Operations and approval of the State Administrative Board on September 30, 2011.

TOTAL ESTIMATED CONTRACT VALUE: \$14,000,000.00

June 9, 2010

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

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B6200377
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR		TELEPHONE (913) 393 3208
Wright Express Financial Services Corporation		Denise Baumgart
Fleet Fueling		
PO Box 6293		BUYER (517) 241-3768
Carol Stream, IL 60197-2934 <small>denise_baumgart@wrightexpress.com</small>		Lance Kingsbury
Contract Administrator: David F. Ancell		
Fuel Card Services - Statewide		
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: September 30, 2011		
TERMS	N/A	SHIPMENT
		N/A
F.O.B.	N/A	SHIPPED FROM
		N/A
MINIMUM DELIVERY REQUIREMENTS		
N/A		

THIS CONTRACT IS EXTENDED LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Effective immediately, this Contract is hereby **EXTENDED** through **September 30, 2011**.
The contact person for this contract is changed as following:

Denise Baumgart
Phone: 913-393-3208
Email: denise_baumgart@wrightexpress.com

All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per request of DTMB, agency services and approved by DTMB/Purchasing Operations.

CURRENT AUTHORIZED SPEND LIMIT REMAINS: \$14,000,000.00

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

March 27, 2009

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B6200377
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE (650) 556-1044
Wright Express Financial Services Corporation	Renata Caine
Fleet Fueling	
PO Box 6293	BUYER (517) 241-3768
Carol Stream, IL 60197-2934 <small>renata_caine@wrightexpress.com</small>	Lance Kingsbury
Contract Administrator: David F. Ancell Fuel Card Services - Statewide	
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: September 30, 2010	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

THIS CONTRACT IS EXTENDED LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Effective immediately, this Contract is hereby **EXTENDED** through **September 30, 2010**.
All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per request of DMB-Travel Services, and DMB/Purchasing Operations' approval.

CURRENT AUTHORIZED SPEND LIMIT REMAINS: \$14,000,000.00

July 3, 2008

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

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B6200377
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE (650) 556-1044 Renata Caine
Wright Express Financial Services Corporation Fleet Fueling PO Box 6293 Carol Stream, IL 60197-2934 <small>renata_caine@wrightexpress.com</small>	
Contract Administrator: David F. Ancell Fuel Card Services - Statewide	BUYER (517) 241-3768 Lance Kingsbury
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: September 31, 2009	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

THIS CONTRACT IS EXTENDED LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Effective immediately, the DMB Buyer for this Contract is changed to Lance Kingsbury (517) 241-3768. All other terms, conditions, specifications, and pricing remain unchanged.

AUTHORITY/REASON:

Per DMB/Purchasing Operations.

CURRENT AUTHORIZED SPEND LIMIT REMAINS: \$14,000,000.00

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

October 13, 2006

NOTICE
TO
CONTRACT NO. 071B6200377
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR		TELEPHONE (650) 556-1044
Wright Express Financial Services Corporation Fleet Fueling PO Box 6293 Carol Stream, IL 60197-2934 <small>renata_caine@wrightexpress.com</small>		Renata Caine
		BUYER (517) 241-1647 Irene Pena
Contract Administrator: David F. Ancell Fuel Card Services - Statewide		
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: September 31, 2009		
TERMS	N/A	SHIPMENT
		N/A
F.O.B.	N/A	SHIPPED FROM
		N/A
MINIMUM DELIVERY REQUIREMENTS		
N/A		

THIS CONTRACT IS EXTENDED LOCAL UNITS OF GOVERNMENT

The terms and conditions of this Contract are attached.

Estimated Contract Value: **\$14,000,000.00**

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

**CONTRACT NO. 071B6200377
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Wright Express Financial Services Corporation Fleet Fueling PO Box 6293 Carol Stream, IL 60197-2934	TELEPHONE (650) 556-1044 Renata Caine BUYER (517) 241-1647 Irene Pena
Contract Administrator: David F. Ancell Fuel Card Services - Statewide	
CONTRACT PERIOD: 3 Yr From: October 4, 2006 To: September 31, 2009	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are attached.</p> <p>Estimated Contract Value: \$14,000,000.00</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07116200047. A Purchase Order Form will be issued only as the requirements of the State Departments are submitted to the Purchasing Operations. Orders for delivery may be issued directly by the State Departments through the issuance of a Purchase Order Form.

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

FOR THE VENDOR: Wright Express Financial Services Corporation _____ Firm Name	FOR THE STATE: _____ Signature Sean L. Carlson _____ Name
_____ Authorized Agent Signature	Chief Procurement Officer _____ Title
_____ Authorized Agent (Print or Type)	_____ Date
_____ Date	_____ Date



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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

The purpose of this Contract is to provide fuel cards for agency-owned vehicles, and MIDeal customers.

1.002 BACKGROUND

The State of Michigan has utilized fuel cards for approximately the last ten years under separate contracts. The main reasons for utilizing a fuel card were to exempt state and federal taxes on gasoline and diesel and reduction of the administrative expense of paying for fuel transactions.

The fuel card accounts for other departments and other units of government have been initiated through the Contract Administrator of the contracts in Purchasing Operations. The day to day management of the contracts are managed by personnel from the other departments and other units of government. In other words, each of the 128 entities have their own account, they set their own limits on number of transactions and purchase amounts, they order and cancel their own fuel cards, they pay their own fuel card bills directly, and they have access to the reporting systems of the Contractor.

The other units of government include colleges and universities and local units of government, such as cities and counties.

The types of vehicles fueled with the fuel cards include: light trucks, medium duty trucks and heavy duty trucks, cars, boats, motorcycles, all terrain vehicles, lawn movers, gators, and other vehicles that utilize gasoline and diesel for operation.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

The types of vehicles fueled with the fuel cards include: Light Trucks, medium duty trucks and heavy duty trucks, cars, boats, motorcycles, all terrain vehicles, lawn movers, gators, and other vehicles that utilize gasoline and diesel for operation.

1.102 OUT OF SCOPE

Fuel cards for the approximately 8,000 state vehicles maintained by DMB, VTS.

1.103 ENVIRONMENT

PROGRAM SPECIFICATIONS

1. Card Assignment

Each card will be assigned to a specific vehicle or piece of equipment. A unique vehicle ID and license plate number (if available) identifies each vehicle. Vehicles are assigned to various department, and locations. Location assignment may change over the vehicle life. Unique drivers are not consistently identified with vehicles as multiple drivers share most vehicles.

Contractor's response: Wright Express Complies



2. Tax Exempt Processing

The State requires Contractors to process transactions tax-exempt where authorized. Describe your capability to process transactions tax exempt.

a. Specifically can your company process the exempt the following purchases:

- Unleaded Gas Federal Road Use Tax	Wright Express Complies
- Unleaded Gas State Road Use Tax	Wright Express Complies
- Unleaded Gas State Sales Tax	Wright Express Complies
- Diesel Fuel Federal Road Use Tax	Wright Express Complies
- Diesel Fuel State Road Use Tax	Wright Express Complies
- Diesel Fuel State Sales Tax	Wright Express Complies
- Other Product Purchases Sales Tax	Wright Express Complies
-	

b. Describe the limitation on the handling of transactions tax exempt.

Contractor's Response:

Beginning January 1, 2006, Wright Express will invoice you net of all Federal excise taxes on gasoline and diesel, at the transaction level, regardless of merchant participation.

All fuel transactions are billed to you at retail pump price minus Federal excise taxes, therefore eliminating the need for a negotiated contract price based off an index.

State Excise, State Sales, County and Local Taxes at Participating Merchants

Wright Express currently offers eligible tax-exempt entities a comprehensive State, County, and local tax exemption and reporting program for applicable motor fuel transactions based on merchant participation. Merchant participation in this program is solely at the discretion of the merchants and they may choose to enroll or discontinue participation in the program at any time. The program supports the following levels of tax, including:

- State Primary (Excise Tax)
- State Secondary (Sales Tax)
- State Special
- County Primary (Excise Tax)
- County Secondary (Sales Tax)
- County Special
- City Primary (Excise Tax)
- City Secondary (Sales Tax)
- City Special

Tax-exempt reporting through WEXOnline[®], WEXLink[™] 300 and the paper VAR (Vehicle Analysis Report) shows:

- Exempted Tax, at the transaction level
- Reported Tax, at the transaction level
- Summary of tax types by product for both exempted and reported transactions (paper VAR only)

State Excise, State Sales and County and Local Taxes at Non-Participating Merchants

For fueling transactions with those fuel marketers who do not participate in the Wright Express tax-exempt program, but for which the fleet is eligible to receive tax exemption, Wright Express reports applicable taxes as "showtax." "Showtax" transactions clearly list any transactions and tax amounts, which Wright Express does not exempt so the fleet can file for exemption directly. Many fleets use their WEXLink[™] data file or VAR Tax Exemption Summary to aid in the recovery of taxes that could not be excluded through the tax-exempt program.



Reporting shows:

- Exempted tax, by transaction
- Reported tax, by transaction
- Summary of tax types by product for both exempted and reported transactions (paper VAR only)

It is important for states and government fleets to be provided with 100% Level III data capture as much as possible. Wright Express provides 99.8% Level III data capture, which is invaluable for obtaining tax-exemptions. There are competitors in the marketplace today who cannot claim 99.8% or higher Level III data capture, which may cost states and government fleets administrative time and money.

Tax Exemption for Non-Fuel Purchases

For non-fuel transactions, merchants may provide transactional data to Wright Express net of tax on a fleet-by-fleet basis at the merchants' discretion. Your drivers will need to supply the merchant with proper documentation of their tax-exempt status at the point of sale. The merchant will then send the transaction to Wright Express net of tax for billing.

- c. Detail the companies that do not participate in your tax-exempt program.

Contractor's Response:

Wright Express has included a listing of merchants that do not currently participate in our tax-exempt program in the Supporting Documents section of this response for the State's review. We have provided you with a list of merchants who currently do not participate in our State, County, and local tax exemption program. This list changes frequently and is maintained by our Tax Department.

3. Controls/Restrictions
CASH ADVANCES ARE STRICTLY PROHIBITED. Contractor must provide controls that will prevent the use of the card for cash advances, or for purchasing at certain vendor types.

- a. Document your transaction authorization process.

- b. Does your company have the capability of issuing fuel cards with the following controls:.

- Transaction limits
- Daily limits
- Monthly limits
- Product type restrictions
- Vendor type restrictions
-

Contractor's response:

Wright Express Complies with all

- c. Does your company have the capability of providing controls at the card level or only at the account level?

Contractor's response: Wright Express complies with both

- d. Describe the limitation on the number of cards per account and the number of accounts.

Contractor's response:

There is no limit to the number of Wright Express accounts for any one fleet. Each Wright Express account can accommodate up to 9,999 cards.

- e. Describe any restrictions on accounts such as billing separate state departments.

Contractor's response:

Wright Express can accommodate billing separate for each State department. If any restrictions are required, we would need to obtain further information from the State.



- f. Describe the limits on the number of cards per account.

Contractor's response:

Each Wright Express account can accommodate up to 9,999 cards.

4. Acceptance

The issued cards must have a very high acceptance among merchants throughout the country and especially in the State of Michigan, both Lower and Upper Peninsulas.

- a. Provide an overview of the acceptance of your fuel card, including level three data capture. More than 165,000 fuel locations nationwide-43,000 sites with diesel and more than 7,000 truck stops and travel centers- accept the Wright Express Universal Fuel Card. In addition, there are 41,000 service merchants who accept the WEX card nationally.

The State of Michigan has a total of 5,089 retail fueling locations (The National Petroleum News Market Facts 2005). Wright Express is accepted at over 4,849 of these locations. More than 99.8% of all transactions with the Wright Express card are captured electronically with Level 3 data.

- b. The State requires a minimum of 90% of the transaction include level three data capture.

Contractor's response:

Wright Express requires all of our accepting locations to capture and electronically submit Level 3 transaction data. More than 99.8% of all transactions with the Wright Express card are captured electronically. As a result, Wright Express can offer the State of Michigan one of the widest accepting networks at 99.8% Level 3 data capture which is critical to the management and enforcement of your fleet policy as well as for obtaining tax exemptions and integrating fuel data into fleet management software programs.

- c. Provide the number of stations that accept you card in Michigan.

Contractor's response:

See a. above

- d. Provide a list of participating brands in Michigan.

Contractor's response:

Some major brands that accept the Wright Express card in Michigan are:

Admiral, Amoco, BP, Citgo, Clark, Exxon, Flying J, Holiday, Marathon, Mobil, Pacific Pride Pilot, Quick Fuel, Shell, Speedway SuperAmerica, Sunoco and Texaco.

- e. Detail your supplier enrollment strategy.

Contractor's response:

Wright Express is always increasing its acceptance coverage. Our acquisition strategy is driven by the needs of fleet customers like the State of Michigan. If the State identifies specific fueling needs, Wright Express will work toward increasing its acceptance coverage for the benefit of the customer.

Alternatively, if the State is aware of merchants that are interested in accepting the Wright Express card, please contact your Premium Fleet Services Representative, Rob Gava, at 207-523-7064 or your Government Account Manager, **Renata Caine** at (650) 556-1044 and provide the following information:



- Merchant name
- Merchant address
- Merchant contact person
- Phone and fax numbers
- Expected utilization/volume from your fleet
- Name and phone number of fleet employee requesting Wright Express card acceptance

Wright Express will review the information and work with all interested parties to achieve card acceptance at the location.

- f. Detail your supplier enrollment resources, including whether you outsource supplier enrollment to a third party or internally handle this activity.

g.

Contractor's response;

Wright Express has a dedicated internal resource, the Merchant Services Department, for merchant enrollment and relationship management.

5. Customer Service

- a. Define the process for providing customer service. What is your process for resolving customer service issues?
- b. Describe the resources has committed to your customer service program.
- c. Describe your 24-hour fuel card service assistance if available. Are calls routed to a third party after business hours? If so, please explain.
- d. What kind of training are telephone service representatives given? Is their training ongoing?
- e. Describe the back-up system, if the 24-hour help line is down.
- f. Explain how you measure your performance as a fuel card issuer and how customer satisfaction is gauged. Briefly describe the specific indicators used and how the data is gathered. How are the results reported and to whom?
- g. Describe how you address station attendant training and resolving product-coding issues.
- h. Describe your program level management and assistance.
- i. Does your company offer a method for your clients to network and share best practices? If yes, please describe.

Contractor's response:

The Wright Express Customer Service Department is available to the State of Michigan and all its local political sub-entities 24 hours per day, 7 days a week, 365 days per year, no calls are routed to a third party. The Customer Service Department is always available to handle questions about the Wright Express fuel card program from fleet managers and drivers, to help station attendants process transactions, and to provide backup support to both the Government Account Manager and the Premium Fleet Services Account Manager.

At any given time, there are over 100 Customer Service Associates and Supervisors available to assist you via a toll free phone and fax number as well as email through our Priority Queue.

The toll free number is prominently displayed on the back of the Wright Express card, on the face of the Driver Guide, and in the charge card manual at all stations.

World class, continuous coverage

24 x 7 x 365 availability via toll-free number

Calls answered live, in an average of 20 seconds

Always there when you need us

In addition to assisting fleet managers and drivers with their questions regarding the Wright Express card, Customer Service Representatives are also trained to handle questions regarding account billing, emergency card replacement, and reporting.



Issue Resolution

The Customer Service Department tracks customer complaints or problems through the Problem Log process. When the complaint or problem is reported to Customer Service, the Customer Service Representative will note the issue on the Problem Log screen in our systems. The issue is categorized and distributed appropriately for follow-up. Upon resolution, a note is made on the Log and the Customer Service Representative is notified that the Log has been closed. The Customer Service Representative then reports the results back to the customer.

Wright Express has escalation processes in place to ensure that all customer complaints are handled in a timely manner. The steps and processes vary dependent upon the type of complaint or problem. For example, a complaint that cannot be resolved by a Premium Fleet Services Account Manager is referred to the Team Leader. If necessary, a complaint may be escalated to the Vice President of Relationship Management.

Customer Service Training

The Wright Express Learning and Development department coordinates and conducts extensive training classes on a variety of topics for employees at all levels of the company. While it is not possible to provide details on all of the different types of training we provide, we have provided details below on training opportunities for Wright Express' Customer Service Representatives (CSRs). This training program is just one example of the high level of expectations Wright Express maintains when it comes to employee training

Customer Service Representative (CSR) Trainees spend their first four weeks of employment in full time classroom-based training sessions. By the fourth week, CSR Trainees are transitioned to the call center, where they begin taking calls. During this time, each new CSR will work with a Mentor, who is available at all times to answer questions and assist with calls. CSRs are selected to be Mentors based on their seniority, low rate of error, and favorable performance rating. Each Mentor must successfully complete a certification process before they are assigned to a CSR Trainee.

Once the CSR Trainee has successfully completed two exams, they are transferred to work under a CSR Team Leader who handles a team comprised solely of CSR Trainees. CSR Trainees will stay in this Team environment for two to four months. Their calls are monitored on a daily basis, and all work is checked for errors.

To be promoted from a CSR Trainee to a CSR, the Trainee must pass a third exam, achieving a score of 95% or greater.

The CSR can progress through the Senior CSR and CSR Specialist positions by completing another series of exams. All promotions in the Customer Service Department are exam driven.

All CSRs receive a minimum of 15 hours per year in ongoing training. This may include classroom-based training on Wright Express products, or special presentations on other topics that are helpful in expediting calls or detecting fraud, for example.

Back-up System

There are two possible ways in which the 24-hour Customer Service line may be adversely affected by system failure. There is a plan in place for dealing with each of these possibilities.

- Voice Response Unit (VRU) System Failure

The Wright Express Voice Response Unit automatically handles calls for authorizations from fueling stations. If there is a problem with the VRU at Wright Express in South Portland, Maine, the Customer Service Department will staff the call center with additional Customer Service Representatives (CSRs) to answer calls and provide verbal authorizations over the telephone.

- Power Failure at Wright Express in South Portland, Maine

In the event of a power loss, both our production data center and customer service department telephones and computers will switch to generators, allowing CSRs to provide verbal authorizations over the telephone.

WEXOnline[®], the Wright Express Internet-based account maintenance tool, can also be used for account maintenance functions instead of the Customer Service Department.



Ensuring Customer Satisfaction

At Wright Express, customer satisfaction is our top priority. Customer Operations Performance Center (COPC), the world's leading authority on customer contact center operations, backs this claim.

Wright Express Client Service Operations (CSO) division conducted an extensive benchmark review through COPC. The results of this review were summarized by COPC consultants as follows: "Across all levels of the operation there is a consistent and strong emphasis on the quality of service delivery to Wright Express clients and their end-users and on the importance of customer satisfaction." COPC cited many CSO practices as best in class, including our use of Standard Operating Procedures and Service Level Agreements.

Our goal is to answer 80% of the calls within 30 seconds by a live person. Wright Express sets our standards for customer service by benchmarking against other card-based call centers and then setting our standard higher. We then strive to exceed these increased standards with each call. Customer Service also routinely handles inquiries via fax, mail, overnight express, and email in English, Spanish, and French.

The following information reflects 2004 Customer Service performance results against our established benchmarks.

	Goal	2004 Statistics
Call answer rate (%/seconds)	80%/30	85%
Abandonment rate	<5.0%	2.8%
Productivity (calls, changes, etc.)	15	15
Correspondence turnaround time	<5 days	2 days
Fax turnaround time	24 hours	24 hours

One of the ways that we have sought targeted feedback from specific large fleets in the past is by surveying fleet managers at the account level, via a mail-in response card method. Wright Express compiles the responses and reports back to the fleet on the feedback received. We then work with the fleet to create an action plan in response to any issues raised. Wright Express can work with the State to create a customized satisfaction survey to be sent to its agencies. We recommend that such a survey be undertaken once every two years.

As an additional means of obtaining ongoing customer feedback, a Wright Express Customer Service Representative regularly performs random telephonic surveys of fleet managers on a regular basis. The survey consists of seven questions ranging from the quality of service received from the Customer Service Department, to the responsiveness, knowledge and courtesy of the Customer Service Representatives. Surveys are conducted by one surveyor for consistency.

Wright Express performs customer satisfaction surveys for specific fleet customers, including government and higher education customers, upon request. For example, we conducted a survey at the account level for one of our state government fleets. The information obtained from the survey was used to effect improvement in the state's fleet card program. We would be pleased to conduct a survey for the State of Michigan at any time.

Station Attendant Training

Many of the fuel merchants provide station training to their employees on acceptance of the Wright Express card. Most merchants provide stations with a charge card manual describing the processes for accepting all major charge cards, including the Wright Express card.

Wright Express relies on the merchants to provide us with accurate product code information. The merchants are responsible for programming their point-of-sale devices with product codes. As soon as Wright Express learns from its fleets of inconsistencies that exist between the product purchased and the product code reported, we contact and work with the merchant(s) to attempt to correct such product code errors.

Sharing Best Practices

In 2000, Wright Express established the Government Fleet Advisory Board. The Board, comprising fleet managers representing Wright Express' state fleet customers, meets annually, immediately prior to or just following the National Conference of State Fleet Administrators (NCSFA) meeting, and in the same location. Wright Express also facilitates two Board conference calls every year. The Board was formed so that Wright Express' key state government fleets could provide us with their feedback on our products, services, and overall practices. Our goal is to communicate proactively on the progress of the company with respect to the issues identified by this group. Should the State choose Wright Express, we would once again welcome and encourage their participation on the Board.



Wright Express also seeks feedback from a Lead User Group, a panel of fleet managers representing some of Wright Express' largest and most demanding fleets. The group conferences annually at Wright Express headquarters in Maine, and teleconferences regularly. Additionally, the group responds to "rapid-fire surveys" several times per year, answering questions regarding their satisfaction, with our products and services. This forum enables Wright Express to stay close to its commercial fleet customers and maintain a clear understanding of the requirements necessary to keep our products current and competitive.

Program Level Management and Assistance

Premium Fleet Services Account Manager, Rob Gava

Wright Express currently provides a primary day-to-day State-dedicated PFS Account Manager, Rob Gava, to the State of Michigan and all its local political sub-entities. PFS account managers are highly experienced in the Wright Express Universal Fleet Card Program functionality and technology. They take pride in high quality service standards by answering calls, in most cases, immediately, or at the outside returning calls within two hours. PFS managers provide unique solutions to meet the needs of State fleet customers such as modifying file formats to customer specifications and design reports to match the way States do business. PFS managers also assist State fleet customers in identifying fueling trends, card usage, and price per gallon comparisons within the State's market via Account Reviews.

Wright Express not only understands the needs of State fleets, but we go the extra mile to provide the customized services required to creatively meet those special needs.

Wright Express currently provides a primary day-to-day State-dedicated PFS Account Manager, Rob. Rob is available during normal business hours, Monday through Friday, 8:00am to 5:00pm, Eastern Time.

Rob Gava's contact information is:

Direct Phone: 207-523-7064

Fax: 207-523-7717

Email: rob_gava@wrightexpress.com

Government Account Manager, Renata Caine

Renata Caine will continue to be the first level of management for the State's fuel card program and has been with Wright Express for 12 years. She will provide primary assistance during the proposal evaluation process. Renata will assist with account implementation and then work with State contacts on a strategic level to review usage reports, discuss fuel program strategy, and help you find ways to streamline your fuel programs and reduce your overall costs. Veronica is also available to assist with problem resolution and escalation whenever necessary and can be at the State of Michigan's location within 24 hours notice. Renata can be reached at (650) 556-1044.

Strategic Accounts Manager, Bernie Kavanagh

Bernie Kavanagh will continue to oversee management of the State's accounts and help devise ongoing strategy as a key advisor to the strategic account team. Bernie is responsible for all national account management and Wright Express' entire portfolio of strategic accounts. Prior to joining Wright Express in 1996, Bernie spent six years at Enterprise gaining valuable experience in the fleet leasing industry.

Bernie will offer experience for troubleshooting any problems that arise, and help expedite the development of any necessary solutions. Bernie brings to the State's account a tremendous depth of experience in handling commercial fleet accounts, enabling him to offer insight and knowledge gleaned from extensive work in the industry. Bernie is based in Sewell, New Jersey, is available to the State of Michigan within 24 hours notice, and can be reached at (856) 740-6616.

Vice President and General Manager Relationship Management, Fred Madeira

Fred Madeira will continue to offer high-level guidance on the State's account in his role as Relationship Manager for all of Wright Express' major customers. Fred currently oversees the strategic accounts team, which is under the direct supervision of Bernie Kavanagh. In addition, Fred is also responsible for Wright Express' Private Label and Co-brand lines of business. Fred is based in South Portland, Maine and can be reached at (207) 523-7165.



6. Fees

The State of Michigan's expectation is that there will be no transaction fees for processing fuel transactions. The State of Michigan also expects that a rebate (percentage of fuel costs) as a result of the fuel transactions being processed through the system.

Fees must not be charged to the State solely for the purpose of establishing an account regardless of the purchasing activity on that account.

Wright Express Complies

7. Implementation

Contractor must be able to transition to the program with cards delivered to state locations by 30 days after contract is implemented.

- a. The State requires that the initial cards be delivered directly to state locations. The state will provide a list of vehicles that includes a code identifying the location each vehicle is assigned. A file that provides the address and location contact for each location code will be provided. There are approximately 300 locations. Included with each group of cards shipped by the Contractor must be a listing of the cards enclosed and the vehicles that the cards are assigned to. The State requires a compact list of participating stations or brands be provided to all new recipients during implementation and future additions.
- b. (Reserved)
- c. What type of material for both cardholders and program administrators will your company make available during program implementation?

Contractor's response:

The State's Government Accounts Manager, Renata Caine, and PFS Account Manager, Rob Gava, will work with Program Administrators during the implementation or program review period to explain the program, and then understand the needs of each Program Administrator, particularly with respect to reporting and account maintenance needs. Once the needs of Program Administrators are understood, Wright Express will create a custom training program to address the State's specific needs.

We highly recommend that an in-person training of the WEXOnline program is provided to your Program Administrators under the new contract term.

Some of the tools that may be used include:

- Driver Training Video
- Fleet Manager's Tool Kit available via WEXOnline
- Customized Account Management and Implementation Manual
- One on one or group training in specific areas, by your PFS Account Manager (via web conferencing or in-person meetings)

Wright Express is dedicated to working with its fleet customers to ensure that they completely understand all that our program has to offer both administrators and drivers.

- d. (Reserved)

8. Billing

Currently the State of Michigan pays for fuel purchases once every month. Contractor must demonstrate the capability of providing electronic billing.

- a. Describe your billing options.

**Contractor's response:**

Wright Express offers both electronic and paper billing.

WEXLink™

Many Wright Express State accounts choose to receive billing data in the form of WEXLink™, an electronic file that provides customers with a printable invoice and transaction data on a regular basis, through various automated electronic delivery methods. This WEXLink billing file can be provided to the State daily, weekly, or monthly.

Online Billing

In addition, you can retrieve your invoice and supporting transactional data electronically from our online product, WEXOnline. These online invoices may be printed off and used as remittance documentation for payments. This information is available to download into excel and after the close of your billing cycle. This information is detailed at the corporate, region, and store levels.

Paper Billing

A paper invoice is mailed out to each account under the State contract, which is accompanied by the back-up transactional data VAR (Vehicle Analysis Report).

- b. Describe your billing dispute resolution process.

Contractor's response:

- 1) A customer must notify Wright Express in writing of a disputed transaction within 60 days of the billing date of said transaction. Wright Express requests that the customer to provide as many details regarding the transaction and the reason for dispute as possible, including, but not limited to the following: card number, driver identification number used, transaction date and time, transaction dollar amount, and reason for dispute. Additional information may be requested as necessary to facilitate the investigation.
- 2) The State's written dispute is then forwarded to the applicable department for follow up and investigation. If the dispute involves an allegation of abuse or fraud, the dispute will be handled by Wright Express' Fraud Department and the dispute process may vary from the standards as outlined below depending on the nature and validity of the claim.
- 3) If the disputed transaction occurred inside the fueling location and required a signature from the cardholder, Wright Express will request a copy of the sales draft from the merchant. As a result of the ticket request, the fleet customer will receive a memo on their invoice noting that a transaction dispute is in process. The aggregate balance of the ticket request is deducted from the minimum payment due and is exempt from late fees while the ticket retrieval is ongoing.
- 4) Once the applicable merchant provides a copy of the sales draft, it will be reviewed for compliance with the fleet program. If Wright Express determines that the sale is valid in accordance with the program, the disputed charge balance will be carried forward for payment and will be subject to applicable late fees. Payment is expected during the next billing cycle. Copies of the sale draft are then forwarded to the fleet customer for review.
- 5) In the rare event that the transaction in question is determined to be a duplicate transaction, it is not necessary for Wright Express to request a copy of the ticket from the merchant. After receiving the fleet's dispute in writing and confirming that the transaction is a duplicate, Wright Express will permanently credit the account within five (5) business days.
- 6) If the disputed transaction occurred at an automated facility, a copy of the sales draft would not be available as no signature is required and swipe of the card into the card reader establishes that the card was present at the time of sale. Pursuant to the terms of our Agreement, "...use of a Card and DIN and entry of the applicable sales data into the card system will evidence (your) Agreement to pay for such purchases."
- 7) In the rare occasion that a technical error occurred at an automated facility, Wright Express will perform an investigation into the dispute sale.



- 8) Upon conclusion of the investigation, Wright Express will communicate the outcome of the investigation to the fleet customer. If a credit for a disputed transaction is warranted, it will be applied against the current billing period.
 - c. Describe the data that will be available to the state with the billings.

Contractor's response:

WEXLink Billing and Reporting

The WEXLink 300 billing file is a flat file, which is easily downloaded into any fleet management software program. This file can be placed on an FTP site for the State to retrieve or we can email this file to you. This file is available daily, weekly or monthly and can be delivered to you after the close of your billing cycle. This file can be manipulated to meet your needs at a corporate and location level; it can also be merged with your existing information management system, making it easy to track costs. The data includes extensive detail for both fueling and service transactions, enabling fleets to analyze vehicle, driver and purchase information, and to reconcile monthly invoices.

WEXOnline Billing and Reporting

In addition, you can retrieve your invoice and supporting Level III transactional data electronically from our online product, WEXOnline. The Electronic Vehicle Analysis Report (EVAR) is available to download into excel and after the close of your billing cycle. This information is detailed at the corporate, region, and store levels.

The WEXOnline product is accessed via the internet, providing designated users with access to account information, and transaction data, from any internet capable computer, anytime 24-hours a day, when they need it. The State's Program Administrators can assign varying levels of access - including read-only - to fleet or accounting personnel, based on their needs. Users may access the invoice via WEXOnline and print to remit with payment.

Our WEXOnline[®] electronic E-VAR[®] is provided via 24 hour access to the State, its agencies, and sub-entities and provides the following data:

<i>Electronic Vehicle Analysis Report Data via WEXOnline</i>			
<i>Transaction Data</i>	<i>Site Data</i>	<i>Vehicle Data</i>	<i>Driver Data</i>
Product description	Merchant state	Vehicle number/ID	Driver ID
Non-fuel purchases	Merchant name	Vehicle card number	First name
Transaction date		Odometer	Last name
Transaction time			Department
Quantity purchased			
Fuel cost			
Unit of measure			
Unit cost			
Net cost			
Gross dollars			
Exempted tax			
Reported tax			
Invoice number			
Billing period			
Account number			
Cost per mile			
Miles per gallon			



Paper Billing

Wright Express provides standard business reports through our paper Vehicle Analysis Reports (VAR). Our monthly paper VAR[®] reporting is provided to the State, its agencies, and sub-entities.

9. Liability

The State shall only be liable for the use of credit cards by authorized users provided that the use is within the purchase limits established for the specific account, and the use is processed through a merchant whose Standard Industry Classification Code (SIC Code) is approved for participation.

- a. What liability protection options do you offer? What liability does State of Michigan have under each option?

Contractor's response:

Wright Express has one primary liability protection option. If a Wright Express card is lost or stolen, it should be reported immediately to our Customer Service Department by calling the toll-free number (800-492-0669). Open 24 hours a day, 365 days a year, our Customer Service Department is always available to handle the needs of your fleet. You may also provide us with notice of the loss, theft or unauthorized use of any Card or account through WEXOnline[®]. Subject to any limitations imposed by applicable law, you will be liable to us for all unauthorized use of a Card until you notify us of such use.

Once a card has been reported as lost or stolen, it is immediately invalidated in the Wright Express system. After cancellation, all electronic authorizations associated with the card are declined at the time a purchase is attempted. Once Wright Express receives proper notification, you will be relieved from responsibility for any subsequent charges to the card.

SIC Codes

Wright Express does not utilize SIC codes for restriction of purchase locations. The State of Michigan may take advantage of our Site Selection tool in lieu of SIC code restrictions to customize the suggested locations where your drivers may fuel.

Authorization Controls

Our Authorization Controls tool is subject to the following limitations listed below by type of control:

- Limit Restrictions: Each type of limit has a different minimum amount. The maximum dollar amount is equal to one third of your account's credit limit.
 - Minimum dollars per transaction = \$30 for fuel, \$75 for service
 - Minimum number of transactions per day = \$2 for fuel, 1 for service

Recommendation: To ensure that drivers with authorized needs are not declined use of the card, set limits above the highest possible purchasing level. For instance, if drivers have an occasional need to purchase \$300 in a day, set a higher limit, such as \$325. If a purchase is declined, the driver will need to provide another form of payment. Wright Express Customer Service cannot override a fleet manager's preset limits.



- Pay-at-the-pump: Since pay-at-the-pump transactions are pre-authorized before the gas is pumped, the actual dollar amount is not known at the time of authorization. For all pay-at-the-pump transactions, the Wright Express authorization system applies a default amount of \$30 for authorization purposes only. If the transaction is approved, \$30 is added to your daily authorization total, not the actual amount of the transaction. You will be billed for the actual amount of the transaction.

Recommendation: If your drivers frequently pay at the pump, you should set a dollar limit of at least \$30. If your vehicles require multiple transactions a day, you should set your limit in multiples of \$30, e.g., \$60 or \$90.

- Time of Day/Day of Week controls: For most purchases, the merchant's system assigns the time of day and day of week based on the location of the purchase. When setting time limits, please keep in mind that some merchants assign the transaction based on their central network computer. For example, the central network may assign a time of 4:00 Eastern Time but the transaction actually took place at 1:00 Pacific Time. Wright Express cannot control the accuracy of the time and date in the merchant's system.
- Daily Limits: In the case of Dollars per day and Transactions per day, running totals are kept track of throughout a day that begins and ends at midnight Eastern Time each day.

b. Describe your policies on liability for unauthorized purchases including lost or stolen cards.

Contractor's response:

Once a card has been reported as lost or stolen, it is immediately invalidated in the Wright Express system. After cancellation, all electronic authorizations associated with the card are declined at the time a purchase is attempted. Once Wright Express receives proper notification, you will be relieved from responsibility for any subsequent charges to the card.

You may also provide us with notice of the loss, theft or unauthorized use of any Card or account through WEXOnline®. Subject to any limitations imposed by applicable law, you will be liable to us for all unauthorized use of a Card until you notify us of such use.

c. Describe your fraud protection system.

Contractor's response:

Once a transaction has passed through our point-of-sale lines of defense; Driver ID, Card Type, Site Selection, Authorization Controls, Purchase Alerts, and Exception Reporting; our internal Fraud Department monitors transaction activity for unusual patterns.

Wright Express' Fraud Department performs three primary functions in an effort to identify and mitigate fraud on our fleet customers' accounts:

Primary Functions	
•	Review Transaction activity
•	Identify potentially abusive or fraudulent behavior
•	Notify customers when such behavior occurs

Our Fraud Department makes every effort to detect unusual or excessive purchase activity using constantly evolving techniques and reporting. If such activity is detected, an analyst will contact the fleet manager to bring it to their attention, noting details such as:



“Red Flag” Activity Indicators	
•	Date and time of purchase
•	Merchant location
•	Product purchased
•	Driver identification number used to conduct the sale
•	Dollar amount

In addition, many fuel purchases considered to be unusual or unauthorized based on your fleet fueling policy can be identified through Wright Express Authorization Controls, Purchase Alerts, and Exception Reporting. In our experience, efforts by Wright Express, in tandem with a fleet’s use of these products, substantially reduces exposure to abuse and fraud, and any associated losses.

Our Fraud Department has been instrumental in providing recommendations to prevent fraud from occurring, proactively identifying fraudulent situations, and working closely with the State, merchants and appropriate authorities, to minimize losses and prevent such situations from continuing or recurring. Wright Express will conduct an evaluation of charges to determine liability.

10. Contractor’s Database

The Contractor’s system must be able to contain as a minimum the following information:

- | | |
|--|--|
| <ul style="list-style-type: none"> - Vehicle ID - License Plate - License Plate State - VIN - Department - Location Code - Driver Last Name - Driver First Name - Per transaction limit - Daily spending limit - Daily transaction limit - Monthly transaction limit - Monthly spending limit - Approved SIC or merchant codes - Expiration date - Card Status | <ul style="list-style-type: none"> - Transaction Date - Transaction Time - Station Brand - Station Name - Station Address - Station City - Station State and Zip code - Quantity purchased - Cost per unit - Total sale - Taxes reduced - Internal or pay to the pump - Type of product purchased |
|--|--|

The Contractor must retain transaction data according to industry standards.

Contractor’s response:

The State will be able to query and report on all the fields listed by the State of Michigan in the above question excluding the following fields; monthly transaction limit, internal or pay to the pump, monthly spending limit, and approved SIC or merchant codes.

Wright Express maintains books, records, and documents for a period of six (6) years from the end of a contracted relationship. Wright Express maintains three (3) months of detailed transaction data online which is readily accessible and downloadable for our customers via our WEXOnline[®] product. Summary level transaction data is available online for up to 13 months from the transaction date. This transaction data can also be provided as monthly paper reports. In the event that transaction data is required which is over 13 months old we would work with auditors to retrieve the data from our archives. This retrieved data may not be in the format originally presented to the State and there may be a cost associated with retrieving the data dependent upon the age and volume of the requested materials.



11. Reports

Reports must be available in a variety of formats (i.e., hard copy, magnetic formats such as tape or disk or by electronic data interchange). Contractor must have the ability to provide to the State upon request validation or individual transaction data.

- a. Give a comprehensive description of your standard reports including content, flexibility, frequency, etc. Please provide sample reports.
- b. Describe your ability to provide customized reports. Include delivery timeframes. **If there are any fees, submit that information in the Price Proposal.**
- c. Describe your capability to capture data from a fuel card transaction. List the data elements.
- d. Describe your current capability for the State to perform ad hoc queries on your database.

Contractor's response to 11 Reports:

Standard Reporting

- **Vehicle Analysis Report** – provides detailed Level 3 transaction data via paper format and is provided on a weekly or monthly basis. Included in the VAR are the following reports to assist you with fleet management:
 - ***Financial Summary***-shows total fuel purchases for the department, current period, and year-to-date by: transaction type (retail, private site, terminal, on-site mobile), total fuel costs by grade (regular, premium or diesel), total non-fuel purchases, and total ancillary fees.
 - ***Site Summary***- lists the name and address information, along with the total cost of fuel and non-fuel products, for each location at which purchases were made during the reporting period.
 - ***Exception Summary***-summary data is provided for each exception incurred within the reporting period. We also include a list of driver and vehicle additions or terminations, plus the top 20 stations with the highest frequency of manual transactions.
 - ***Tax Exemption Summary***-shows tax exemptions, by tax type and tax rate
 - ***Tax Reported Summary***-shows tax reported, by tax type and tax rate
- **WEXLink™** – a flat file report pushed out daily, weekly or monthly to a secure FTP server. WEXLink files reside on the FTP server for three months with an option for retrieval after that period and can be accessed with a secure User ID and Password, which is set up by your Premium Fleet Services Account Manager.
- **WEXOnline®** – access vital fleet information and utilize powerful tools, all through the ease of the Internet. WEXOnline is a cutting-edge, web-based program, giving you greater options and controls to save time and cut expenses. Reporting available through WEXOnline consists of:
 - ***EVAR*** – Electronic Vehicle Analysis Report provides users with detailed transactional data that can be easily downloaded and merged with existing fleet management software programs
 - ***Transaction Details*** – select a date range and select fuel, service or all categories to view detailed transactional data
 - ***Billing Cycle Details*** – view back-up transactional data associated with specific billing dates

Customized Reporting

- **Flexible Exception Reporting** – exceptions can be emailed daily, weekly or monthly and paper exceptions can be distributed on a weekly and monthly basis. This reporting feature provides you with a summary of key exceptions for your fleet, enabling you to closely monitor and act on transactions that fall outside of your accepted policies. These exceptions can be placed at the card or account level:
 - More than X dollars per day
 - More than X transactions per day
 - More than X gallons per day
 - Transactions on weekends
 - Transactions on holidays
 - Transactions outside normal business hours



- Manual transactions
 - Non-fuel transactions
 - Unauthorized fuel products
 - Site lockout
 - Fuel only
 - Inactive vehicles
- **wRightview Reporting** – this new internal reporting tool allows for Premium Fleet Services Account Managers to pull the following customized reports:

Transaction Reports:

- Diesel Fuel Report – A transactional report for only Diesel Fuel.
- Driver Transaction Report – A transactional report by particular Driver(s).
- Non Fuel Transaction Report – A Non-fuel transactional report.
- Premium Fuel Report – Transaction report only showing Premium Fuel Products.
- Transaction Report – A transactional report by National or Account#.
- Vehicle Transaction Report – A transactional report by particular Vehicle(s).
- WEX TransCode – A transactional report filtered by WEX Trans Code.

Summary Reports:

- Department Summary - Summarizes by Acct# and Dept# the gallons, dollars, PPG and # of Transactions.
 - Diesel Fuel Summary by Account# - This report will group all grades of Diesel as Diesel Fuel.
 - Diesel Fuel Summary by National Id – See above, but report on NAT ID level.
 - Driver Fuel Summary by National Id - Summarizes purchases by driver.
 - Driver Fuel Summary by Month - Summarizes purchases by driver by month.
 - Gallons & Dollars Summary Total Gallons and Dollars for a particular Account#.
 - Gallons & Dollars BY MONTH - Total gallons and dollars grouped by Month.
- **OPIS Fuel Reports** – Imagine how much money you can save when you know which stations consistently offer the best fuel prices and precisely where these sites are located. Right now, OPIS (Oil Price Information Services, the world's most widely accepted fuel price benchmark) is doing fuel price reconnaissance work in your area. OPIS will integrate their data with your Wright Express transaction information to show you exactly how your fuel purchases compare to the market average and which drivers are paying too much, too often.

Choose one, two or all three OPIS reports to track and compare area brands' fuel pricing trends, direct drivers to the lowest priced sites on their routes, or see who's paying too much and who's saving you money.

These exclusive OPIS reports are only for Wright Express customers and only available through WEXOnline. More than ever, going online helps you stay one step ahead of volatile fuel prices.

Ad hoc Reporting

Wright Express has accommodated, and will continue to accommodate, any ad hoc reporting that the State may request. Some ad hoc reports we have provided to the State in the past are; total gallons and dollars by fuel type for a specified period of time, tax exemptions for a specified period of time, total alternative fuel purchases, etc.

The State may also perform ad hoc queries of transaction information by utilizing WEXOnline. WEXOnline is available 24 hours a day from any location with an Internet-enabled computer. Transactional data can be easily downloaded into Excel or other reporting programs for purchase, driver, vehicle and station analysis.

Data Elements

Wright Express **requires** all of its participating vendors to be Level III capable, therefore 99.8% of all transactions at the gas stations that the State of Michigan fuels at will pass through Level III data.



- **Ad hoc Queries**

The State may perform ad hoc queries of transaction information by utilizing WEXOnline. WEXOnline is available 24 hours a day from any location with an Internet enabled computer. Transactional data can be easily downloaded into Excel or other reporting programs for purchase, driver, vehicle and station analysis

12. Database Technology

The State has a preference to be able to order new or replacement cards and cancel cards through an internet application.

- a. Describe the system and accessibility options available to the State through your product(s). For each option, include implementation timeframes, hardware and software requirements, and technical support required from the State for each option. **Identify related pricing (if any) in the Price Proposal.**

Contractor's response:

The State of Michigan currently orders and cancels cards through our online product, WEXOnline. WEXOnline does not require any hardware or software and can be accessed from any Internet enabled computer.

- b. Describe the ability to request a large quantity of new cards through an electronic file.

Contractor's response:

Wright Express is able to conduct mass additions of cards via an electronic file.

- c. Describe the ability to update your system with an electronic file.

Contractor's response:

Wright Express has the ability to receive and upload files from the State for functions such as the addition of a large number of cards or the addition of VIN numbers for tracking and reporting.

As a course of business, Wright Express receives and uploads transaction files daily from our lockboxes and merchants.

- d. Describe the process for accessing the system. Include response time, up time, and capacity.

Contractor's response:

Our online account management and reporting system, WEXOnline, can be accessed by all State cardholders from any Internet enabled computer 24 hours a day 365 days a year. Permissions for certain activities can be restricted to authorized individuals at the State's discretion.

Response time for actions conducted through WEXOnline is immediate. There are no limitations to the number of users that can be online at any one time.

- e. Describe capabilities related to Internet access (account administration and/or cardholder online access) and the process and description of security for this type of access.

Contractor's response:

Wright Express Online Product

Wright Express currently provides the State of Michigan and its local political sub-entities with our highly regarded online product. WEXOnline is accessed via the Internet, providing designated users with **real-time** account maintenance, detailed transaction data, Authorization Controls and Purchase Alerts, and electronic invoice from any Internet capable computer, anytime 24-hours a day, when they need it.



Program Administrators can assign varying levels of access - **including read-only** - to fleet or accounting personnel, based on their needs.

Wright Express uses security measures to protect the fuel card account information and transaction data of our fleet customers. For example, access to WEXOnline® is obtained through a User ID and Password. A customer's initial WEXOnline® Password is provided at the time of setup; customers are prompted to change their initial Password when they first use WEXOnline. Subsequent changes can be made by the user via the WEXOnline® system. Wright Express utilizes 128-bit encryption for passwords, but can accommodate 40- or 56-bit encryption, based on a client's software restrictions. Customer passwords are maintained in the Wright Express account system and only those with authorization may access them.

Below is a description of our online product.

WEXOnline

1. Login to www.wexonline.com
2. Enter your Username and Password
3. Select any of the function tabs available on the Home page

WEXOnline Functions

The "**Account Maintenance**" option enables users to perform basic account maintenance such as:

- Card Maintenance- Add/delete/reissue/terminate cards
- Driver Maintenance- Add/delete/change driver names and Driver IDs
- Department Maintenance- Add or Hide departments
- Account Profile- View active and/or terminated drivers and cards. Allows querying of data by: vehicle card number, customer vehicle id, license plate, license state and vehicle description
- Change Address- Shows "mail to" and "bill to" addresses. For security purposes, there is a link to addresschange@wrightexpress.com (or you can fax Customer Service at 800-395-0809) to make requests for change of address.
- Activity Log- Select a date range to view activities conducted on accounts

The "**Invoice & Payment**" option enables users to view invoice and submit payment:

- View Invoice- View invoice as soon as it is available, usually within first 5 business days of the month
- View Detail- View back-up transactional data associated with specified billing dates
- Make Payment- Print invoice and submit to WEX for payment
- Review Payment- Allows authorized users to view invoices and payments made
- Set Up Bank Information- Users can set up bank information online

The "**Reporting**" option enables users to view standard reporting and create exception reporting based on the users preferences:

- EVAR- Electronic Vehicle Analysis Report provides users with detailed transactional data that can be easily downloaded and merged with existing fleet management software programs
- Premium Reports
 - Exceptions- create exception reporting with easy to filter reporting: purchase amount, non-fuel transactions, fuel quantity, premium fuel, weekend purchases, holiday purchases, multiple transactions per day, diesel purchases, after hour purchases, PPG, merchant state, and zip code
 - Transaction Summary- Select date range and view summarized transactional data based on specific query criteria
 - Transaction Detail- Select date range and select fuel, service or all categories to view detailed transactional data
- Custom Query- Create your own customized queries to be saved
- Remove Paper- Allows users to select and remove different sections of the paper reporting (VAR)



The “**Controls**” option enables users to set-up and maintain controls and alerts through Profile Manager:

- Purchase Alerts- Users can set-up alert parameters which are emailed daily
 - *Transactions per Day*
 - *Transactions Within a Specified State*
 - *Transactions Within a Time Range*
 - *Transactions for Specified Day(s) of the Week*
 - *Dollars per Day*
 - *Dollars per Transaction*
 - *Gallons per Transaction*
 - *Allowable Fuel Types*
- Profile Manager- Set up Authorization Controls at the card, account or profile level. Controls available are:
 - *Transactions per Day*
 - *Daily Dollar Limit*
 - *Transaction Dollar Limit*
 - *Time of Day*
 - *Day of Week*
- Assign Profile- Assign a particular group of vehicles to each Profile Manager that is set up with Authorization Controls. This allows for the user to establish different parameters for different types of vehicles, such as sedans, heavy trucks, light trucks, emergency vehicles, etc.

The “**Toolkit**” option enables users to select particular tool functionality to assist with fleet management:

- Accepting Locations
- Daily Best Fuel Price
- Fuel Mapping & Routing
- WEXIndex Top Metro Report
- Fleet Manager Handbook
- Driver Video

The “**Settings**” option allows users to:

- Preferences
- Change Password

f. List the data elements that are accessible on transactions.

Contractor’s response:

Wright Express **requires** all of its participating vendors to be Level III capable, therefore **99.8% of all transactional data** captured at all the gas stations that the State of Michigan fuels at will pass through Level III data.

g. How long is data retained in your system?

Contractor’s response:

Wright Express maintains books, records, and documents for a period of six (6) years from the end of a contracted relationship. Wright Express maintains three (3) months of detailed transaction data online which is readily accessible and downloadable for our customers via our WEXOnline[®] product. Summary level transaction data is available online for up to 13 months from the transaction date. This transaction data can also be provided as monthly paper reports. In the event that transaction data is required which is over thirteen (13) months old we would work with auditors to retrieve the data from our archives. This retrieved data may not be in the format originally presented to the State and there may be a cost associated with retrieving the data dependent upon the age and volume of the requested materials.

h. Does your system include a station listing? If so please describe.

**Contractor's response:**

Yes. Wright Express is always increasing its acceptance coverage. For the most up to date information, Wright Express maintains a corporate website at www.wrightexpress.com. This website includes an online site directory where fueling locations can be searched by brand, city, state, and zip code. Site searches can also be done via WEXOnline®. Wright Express can provide paper station directories, by state, upon request. These directories are updated regularly and are always available free of charge.

- i. Describe the ability for an administrator to create organizational hierarchies and move cardholders around within it.

Contractor's response:

The State may create levels of hierarchy within your accounts to mimic your organizational structure. Cards can be assigned to various hierarchy levels through our online account management and reporting tool WEXOnline®.

- j. Describe your back-up process, for example, the dial in number in the event internet connection is down. Describe your disaster recovery process

Contractor's response:

Should WEXOnline be down for any reason, the State may contact our Customer Service Department by calling the toll-free number (800-492-0669) any time 24 hours a day and 365 days a year.

Technical Disaster Recovery

Wright Express maintains a Technical Operations Disaster Recovery Plan (DRP) that is designed to provide immediate response and subsequent recovery from any unplanned computing services interruption, such as a loss of utility services, building evacuation or catastrophic event such as a major fire. The DRP documents the strategies, resources, and procedures that the Technical Operations Recovery Support Teams will use to respond to any short or long-term interruption to essential production business systems. The exact details of the DRP must be kept confidential to protect the interests of Wright Express and its fleet customers.

The DRP is validated during semi-annual testing exercises, in order to train recovery personnel and ensure the strategies and actions accurately reflect current recovery requirements.

The DRP is designed to create a state of readiness that will provide an immediate response to any of the following scenarios:

- Any incident causing physical damage, such as fire, smoke or water damage
- Any incident indirectly affecting facility access, such as storm closure, emergency building evacuation caused by bomb threat or other circumstances requiring physical evacuation of our primary data center for an extended period of time.
- Impending or unexpected regional disaster, such as a hurricane, earthquake or other acts of nature
- Any external incident, which potentially could cause an extended business interruption, such as loss of electrical or telecommunications service.

Our detailed Business Continuity Plan and Disaster Recovery Plans are considered confidential and proprietary and we are unable to discuss them in detail. We would be happy to address any concerns not covered in the preceding paragraphs regarding our continued ability to service your account during business interruptions.

- k. Describe your process for software enhancements. What future innovations are you investigating?



Contractor's response:

Wright Express collects feedback from our customers annually to aid in determining how to better address their changing product needs. These needs are addressed through two dedicated departments, our Strategic Planning and Premium Fleet Services Departments. These departments work to provide across-the-board process improvements as well as individualized electronic business solutions like the innovations and enhancements listed below.

wRightview: Wright Express recognized that many customers were requesting the same type of ad hoc reporting, which needed to be provided in an expedient manner. In order to provide this service to the industry, we created a new internal reporting tool named "wRightview". This tool allows for PFS Account Managers to pull the following customized reports:

Transaction Reports:

- **Diesel Fuel Report** – A transactional report for only Diesel Fuel.
- **Driver Transaction Report** – A transactional report by particular Driver(s).
- **Non-Fuel Transaction Report** – A non-fuel transactional report.
- **Premium Fuel Report** – Transaction report only showing Premium Fuel Products.
- **Transaction Report** – A transactional report by National or Account#.
- **Vehicle Transaction Report** – A transactional report by particular Vehicle(s).
- **WEX TransCode** – A transactional report filtered by WEX Trans Code.

Summary Reports:

- **Department Summary** - Summarizes by Acct# and Dept# the gallons, dollars, PPG and # of Transactions.
- **Diesel Fuel Summary by Account#** - This report will group all grades of Diesel as Diesel Fuel.
- **Diesel Fuel Summary by National Id** – See above, but report on NAT ID level.
- **Driver Fuel Summary by National Id** - Summarizes purchases by driver.
- **Driver Fuel Summary by Month** - Summarizes purchases by driver by month.
- **Gallons & Dollars Summary** - Total Gallons and Dollars for a particular Account#.
- **Gallons & Dollars BY MONTH** - Total gallons and dollars grouped by Month.
- **Grouped Fuel Summary** - This report will sum the gallons and dollars for Fuel Products Only for a particular date range.
- **PPG by Brand Report** - PPG Summary Report for a given Posting Date Range by Brand.
- **PPG by City Report** - PPG Summary Report for a given Posting Date Range by each City and State.
- **PPG by Site Report** - PPG Summary Report for a given Posting Date Range by Site.
- **PPG by State Report** - PPG Summary Report for a given Posting Date Range by each State.
- **PPG by Zip Code Report** - PPG Summary Report for a given Posting Date Range by Zip Code.
- **PPG Report** - PPG Summary Report for a given Posting Date Range.
- **Product Summary** - Summarize gallons, dollars and transaction count for each product per account.
- **Site Summary by Acct#** - Summarizes by Brand and Site Name the gallons, dollars, PPG and # of Transactions.
- **Site Summary by National Id** - Summarizes by Brand and Site Name the gallons, dollars, PPG and # of Transactions.
- **Summary by Merchant for Account#** - Summary of gallons and dollars done at a specific Merchant. Sums gallons and dollars by merchant prefix by Account#.
- **Summary by Merchant for Natl ID** - Summary of gallons and dollars done at a specific Merchant. Sums gallons and dollars by merchant prefix for national ID.
- **Unleaded Fuel Summary by Account#** - This report will group all grades of Unleaded as Unleaded Fuel. You will be prompted for Account#(s) and Posting date range.
- **Unleaded Fuel Summary by National Id** - This report will group all grades of Unleaded as Unleaded Fuel.
- **Vehicle Max Trans Report** - Gives you Last Transaction Date for each vehicle during a given Posting Date Range.
- **WEX Trans Code Summary** - Report will give you summary by WEX Trans Code.



OPIS Tools: Imagine how much money you can save when you know which stations consistently offer the best fuel prices and precisely where these sites are located. Right now, OPIS (Oil Price Information Services, the world's most widely accepted fuel price benchmark) is doing fuel price reconnaissance work in your area. OPIS will integrate their data with your Wright Express transaction information to show you exactly how your fuel purchases compare to the market average and which drivers are paying too much, too often.

Choose one, two or all three OPIS reports to track and compare area brands' fuel pricing trends, direct drivers to the lowest priced sites on their routes, or see who's paying too much and who's saving you money.

These exclusive OPIS reports are only for Wright Express customers and only available through WEXOnline. More than ever, going online helps you stay one step ahead of volatile fuel prices.

WEXOnline: Wright Express urges customers to solicit feedback on what they would like to see for enhancements to our online product. This feedback is reviewed and prioritized by a team of folks from different departments to ensure all customers are represented fairly. On a quarterly basis, Wright Express provides our customers with new features or enhancements to WEXOnline. Some of those enhancements scheduled for 2006 release are:

- Improvements to Online Authorization Controls
- Quickbooks download
- Integration with Fleet Management Software
- Enhancements to OPIS Fuel Price Tools including Diesel Reporting and Reporting Distribution

WESN Premium: The WESN Premium program is able to customize maintenance and repair coding to the preferences of the State of Michigan. One of the primary purposes of such coding is to accurately define maintenance and repair activities and to produce Level III reporting. The maintenance and repair codes can be altered based on requirement changes that may occur during the life of our relationship with the State of Michigan. Codes may be accessed via the online account management system through category hierarchies.

The benefits of WESN Premium are:

- No interruption of relationship with merchant
- Automation of Fleet & AP policy
- Reduction in overall cost
- Merchants charged at universal rates, allowing merchant discounts to be easily measured and negotiated against retail
- Operational efficiency
- Electronic retention of invoices
- Consistent accuracy of data capture – performed by WEX personnel whose primary function is to deliver timely, quality service
- Consolidation of merchant invoices into single payment
- Merchant reporting (e.g. MWOBE, 1099)

I-Spec: Wright Express is currently working with all of its private and public network hosts to get them to adopt our new I-Spec. By adopting the new I-Spec at the networks, authorization will be driver by Product Class controls instead of Industry controls. Product Class examples:

- Fuel Products- Includes all fuel types: gasoline, diesel, propane, kerosene, etc.
- Automotive Products- Includes motor oil, top-off fluids such as anti-freeze and washer fluids, and any other general automotive merchandise.
- Automotive Parts & Service- Includes tires, batteries, accessories, tire rotation, and any service work performed on a vehicle
- Car Wash- Includes car wash
- General Merchandise- Includes products such as coffee, groceries, and snacks



The networks adopting I-Spec will enable this functionality. However, before it can be delivered to you, two things need to happen:

- More than 80 percent of the networks need to adopt I-Spec
- WEXOnline needs to be upgraded to enable set-up for you

Advantages to I-Spec adoption will include:

- Improved Data Integrity
- Capturing Transaction Messages Near Real-Time
- Flexible Prompting Options
- Pump Shut Off

13. Training

The Contractor must assist the State in the development of a training program and to provide materials to inform individuals participating in the State's Fuel Card program.

- a. Describe a training process, which may or may not include temporary on-site representation.

Contractor's response:

The State's fleet managers and employees are already familiar with the Wright Express fuel card program and have established relationships with Renata Caine, Government Account Manager, and Rob Gava, PFS Account Manager. The State's fleet managers and Rob will work to explain the program, and then understand the needs of State personnel, particularly with respect to WEXOnline® and paper reporting as well as account maintenance needs. In addition to Rob, your locally located Government Account Manager, Renata Caine is available for training assistance to the State of Michigan throughout your contract period with Wright Express. Renata is also a resource that is available to resolve any issues you may have in the most expeditious way possible. Once the needs of the State are understood, Wright Express will create a custom training program to address the State's specific needs.

Some of the tools that may be used include:

- Driver Training Video
- Fleet Manager's Tool Kit available via WEXOnline®
- Customized Account Management and Implementation Manual
- One on one or group training in specific areas, by your PFS Account Manager, Rob Gava (via web conferencing or in-person meetings)

CARD PROCESSES AND SPECIFICATIONS

1. Issuance

The State will develop internal rules and procedures for issuance, security and operation matters related to the Fuel Card Program. The Contractor must assist the State with development, implementation, modification, or enhancement of these rules upon request by the Contract Administrator.

- a. Detail the process to open and maintain accounts. What are your timeframes for issuing new fuel cards, replacements, reissues, and account maintenance?

Contractor's response:

Accounts can be opened by authorized State employees through your dedicated Wright Express Premium Fleet Service Account Manager, Rob Gava. Once opened, accounts can be maintained by Rob, via Customer Service, or through WEXOnline®. WEXOnline® can be accessed from any Internet enabled computer 24 hours a day.



Wright Express can print and send new, replacement and reissued cards to you within 24 hours of your request. If notification is received by 2:00 p.m. Eastern Time, you may opt to have these cards sent to you that day, via overnight mail for a fee. Any new, replacement or reissued cards ordered after 2:00 p.m. Eastern Time will be printed that same evening and mailed out the next day via 2-day Priority Mail. Wright Express can accommodate overnight mailings upon the State's request for a fee.

Please note: Wright Express does not reissue cards using previously cancelled Wright Express card numbers (i.e. 0020-1 cannot be reissued. This card can be reissued as 0020-2).

- b. Describe the electronic flexibility your program offers to open, close and change cardholder accounts. (See above a.)

2. Replacement

Lost or stolen cards must be replaced at no cost to the State.

- a. Describe your process for replacing lost or stolen cards, including timeframes.
- b. Describe your method of shipping replacement cards.
- c. What is your policy for reporting lost or stolen cards? Describe the assistance you provide for lost or stolen cards.

Contractor's response:

Wright Express can print and send lost or stolen replacement cards to you within 24 hours of your request. If notification is received by 2:00 p.m. Eastern Time, you may opt to have replacement cards sent to you that day, via overnight mail for a fee. If notification is received after 2:00 p.m. Eastern Time, Wright Express will print the replacement cards that evening and will mail them out the next day via 2-day Priority Mail. Wright Express can accommodate overnight mailings upon the State's request for a fee.

If a Wright Express card is lost or stolen, it should be reported immediately to our Customer Service Department by calling the toll-free number (800-492-0669). Open 24 hours a day, 365 days a year, our Customer Service Department is always available to handle the needs of your fleet. You may also provide us with notice of the loss, theft or unauthorized use of any Card or account through WEXOnline®. Subject to any limitations imposed by applicable law, you will be liable to us for all unauthorized use of a Card until you notify us of such use.

Once a card has been reported as lost or stolen, it is immediately invalidated in the Wright Express system. After cancellation, all electronic authorizations associated with the card are declined at the time a purchase is attempted. Once Wright Express receives proper notification, you will be relieved from responsibility for any subsequent charges to the card. Wright Express can provide the State with reporting detailing card replacements at the account, driver, or aggregate level to assist the State with management of your fleet policy.

3. Cancellation

The State shall not be liable for charges incurred after verbal or written notice to the Contractor to cancel a card. As part of its procedures, the State will recover credit cards whenever possible from employees upon retirement, termination or reassignment of a vehicle.

- a. Describe your firm's account suspension and cancellation policies and procedures.

Contractor's response:

Once a card has been reported as lost or stolen, it is immediately invalidated in the Wright Express system. After cancellation, all electronic authorizations associated with the card are declined at the time a purchase is attempted. Once Wright Express receives proper notification, you will be relieved from responsibility for any subsequent charges to the card.

**Account Collection and Suspension Philosophy:**

Wright Express utilizes a philosophy called **L.E.A.P.** to conduct our collections efforts. **L.E.A.P.** is an acronym that defines our approach to effectively communicate with our customers and make decisions that are best for both the customer and Wright Express.

L.E.A.P. stands for:

Listen – We focus on understanding the Customer’s concerns.

Empathize – Our Collectors imagine themselves in the Customer’s shoes.

Acknowledge – We demonstrate that we understand the Customer’s situation and concerns.

Process – Our Collectors make the right decision based on the circumstances.

Our Collectors are also trained in the Thomas-Kilmann Conflict Mode to assist them in identifying different conflict behaviours and applying the correct technique for the situation for the quickest and most effective collection resolution.

Collection Process:

Our collection process is broken out into 6 distinct steps described below:

Step 1: 30 days past due

During **Step 1**, we contact all accounts that have reached 30 days past due in the order of highest risk and highest balance first. In this phase Collectors have the **discretion to suspend** the account until payment is collected depending on their assessment of the call proceedings. Collectors also have the discretion to protect an account from suspension if it is determined that the account is low risk for aging further. While results can vary from program to program for a variety of reasons, we generally experience an 87% recovery rate during this phase of the collections process. As an account ages from 30 days past due and reaches 50 days past due, an automatic soft suspension occurs. During soft-suspension, a Collector may reactivate an account based on their interactions with a Customer and their assessment of recovery potential.

There are two requirements placed on our Collectors in this phase; 1) All past due accounts must be called at least once, and 2) Every account must be contacted prior to service interruption.

Step 2: 60 days past due

During **Step 2**, we contact all accounts that have reached 60 days past due in the order of highest risk and highest balance first with emphasis on frequent contact. In this phase Collectors increase the amount of **manual suspensions** placed on accounts and have the discretion to suspend the account until payment is collected depending on their assessment of the call proceedings. While results can vary from program to program for a variety of reasons, we generally experience an 84% recovery rate during this phase of the collections process.

Step 3: 80 days past due

During **Step 3**, all accounts that have aged to 80 days past due will be **automatically soft suspended**. Soft suspension allows Collectors to re-activate accounts without additional review once an account has submitted payment and is current again.

Step 4: 90 days past due

During **Step 4**, we contact all accounts that have reached 90 days past due all accounts are considered high risk and Collectors aggressively call all accounts in order of largest balance first. In this phase, accounts that have aged past 90 days are **systematically hard suspended**. Hard suspension requires payment to be submitted for all past due balances and a full credit review before the account is re-activated. While results can vary from program to program for a variety of reasons, we generally experience a 32% recovery rate during this phase of the collections process.

**Step 5: 120 days past due**

During **Step 5**, we turn over all accounts that have reached 120 days past due to third-party collection agencies. While results can vary from program to program for a variety of reasons, we generally experience a 7 ½% recovery rate during this phase of the collections process.

Step 6: 180 days past due

During **Step 6**, we write off all account balances that have reached 180 days past due. We continue to pursue collection efforts through third party agencies.

4. Card Format Design

The card format must be distinctive so that it readily identifies the cardholder as an employee of the State of Michigan.

a. Do you offer fully customized cards? Is there a cost? **If so, include in the Price Proposal.**

b. Can the following data appear on the card?

- State of Michigan
- Phrase: For Official Use Only – Tax-Exempt - NO. A154961
- Vehicle ID and License Plate
- The Contractor's free "help" telephone number printed on the reverse side of the card.

Contractor's response:

We currently provide the State with custom cards free of charge and will continue to do so in the future. The State of Michigan currently utilizes customized plastic assigned to each vehicle in various State agencies.

The State of Michigan can populate up to five fields with card data, which includes:

State of Michigan

For Official Use Only – Tax-Exempt – NO. A154961

Vehicle ID and License Plate

Wright Express' Customer Service and Authorization toll-free number is on the reverse side of the card.

Available Card Data Fields

Field 1: 17 character alphanumeric field (used for vehicle description)

Field 2: 17 character alphanumeric field (used for the company vehicle number)

Field 3: 10 character alphanumeric (used for the license plate)

Field 4: 8 character alphanumeric field (used for Department or cost center)

Field 5: 2 character field (used for state)



PROGRAM ENHANCEMENTS

1. Products and Services

The State may need cards assigned to state employees who work in undercover law enforcement operations. Describe alternatives available in your program that would meet this need. Some fuel suppliers will offer volume incentives. Describe any vendor discount or purchase credit programs that will result in lower fuel costs to the State that we may be able to take advantage of.

Contractor's response:

Currently, Wright Express is providing the State of Michigan with special considerations for undercover law enforcement operations. These cards are issued on Wright Express standard plastic and they cannot be identified as State cards.

Wright Express® assigns a unique account number under which cards can be created to accommodate undercover vehicle operations. The account instructions include special information alerting Customer Service to the special needs of the cardholders. Information pertaining to the type or name of the account will not be given to station attendants. These instructions are accompanied by a request for a password that must be provided prior to initiating discussions with anyone calling on the account. Numbers are used in place of driver names on monthly reports to help conceal the identity of undercover officers.

In addition, incentive offers extended to the State by Wright Express is based on volume and payment term discounts as described in the Pricing Response. This allows the State to take full advantage of the same discount at all accepting merchants regardless of their participation in any specific program.

2. Payment

Contractor must accept payment through the use of electronic funds transfer (EFT) upon the request of the State. Payments may be made directly to the Contractor, or to the bank account established by the Contractor to receive payments from the State. The responsibility of payment will rest with the State, and not the individual employee/cardholder. Describe your proposed payment terms.

Contractor's response:

Wright Express requests that customers pay via check or Electronic Funds Transfer.

Wright Express accepts payment via customer or company initiated Electronic Funds Transfer (EFT). With EFT, the payment process is established in accordance with Wright Express guidelines. This proven, automated method ensures that your payment is properly applied.

Historically, Michigan's DOT has paid Wright Express via paper check and recently through EFT. DNR remits payment with both a check and EFT.

Payment for purchases made using the Wright Express Universal Fleet Card will be the sole responsibility of the State. This is our normal course of operation for our program.

If the State of Michigan has a "Prompt Payment Act" applicable to the type of relationship described in this response, Wright Express would agree to comply with that Act or Law. Otherwise, purchases are due and payable in full upon billing. Your account is delinquent if the balance is not paid within 26 days of the billing date appearing on your invoice. Late fees are assessed at a periodic (monthly) rate, and a corresponding Annual Percentage Rate as described in our Pricing Response. A minimum late fee will be charged and is described in our Pricing Response that meets the State's current laws.



3. Program Expansion

Contractor must describe their support to enhance the State's program and increase card usage. Provide a detailed description including past experience and reference information.

Contractor's response:

Due to the new Federal tax legislation that goes into effect January 1, 2006, Wright Express can now support Federal Excise Tax exemptions for gasoline and diesel at all fuel merchant locations, regardless of participation in the Wright Express tax-exempt program. Therefore, vehicles/cards that were not using the Wright Express fuel card due to the lack of Federal Excise Tax exemption for diesel purchases can now use our card for diesel purchases. Wright Express, as the Credit Card Issuer, will float these tax exemptions for the State and will file with the IRS directly for a refund.

Wright Express would be happy to work with the State of Michigan to design promotional materials that can be incorporated into the State's intranet site. In our past experience, we have also used several techniques to promote awareness and participation of new card users and entities, some of which are:

- Solicitation via mail campaign
- Leveraging our in-house Inside Sales force
- Designing promotional content for inclusion in the State's intranet site
- Solicitation by the Wright Express Michigan District Sales Manager, Carolyn Goldman

**1.104 WORK AND DELIVERABLE**

1. Contractor Shall provide a standard size plastic commercial fuel card including a magnetic strip on the reverse side to be assigned to each specific vehicle assigned to various State agencies and departments. The card format must be distinctive so that it readily identifies the cardholder as an employee of the State of Michigan and include the following information:
 - a. State of Michigan.
 - b. Phrase: For Official Use Only – Tax-Exempt – NO. A154961.
 - c. Vehicle ID and License Plate.
 - d. The vendor's toll-free help line telephone number printed on the reverse side of the card.
2. Provide fuel cards that meet the unique needs of undercover law enforcement operations. These cards are not identified as a State card and may require a separate account number with a false company name.
3. Provide any limitations on the number of cards per account and the number of accounts that your company may provide.
4. Provide the number of your fuel facilities that meet the minimum requirements stated in this RFP:
 - a. Participating brands.
 - b. Complete list of your fuel sites in Michigan, including the site name, address and brand affiliation where applicable.
 - c. Identify fuel facilities that are capable of capturing Level III transaction data and those that are not.
5. Provide transaction controls and/or limits for each cardholder in each of the following areas. Indicate if your controls are at card level or only at account level for each area.
 - a. Maximum transaction size.
 - b. Number of transactions in a period (e.g., day, week, month).
 - c. Transaction dollar volume in a period (e.g., day, week, month).
 - d. Monthly credit limits.
 - e. Prevent cash advances.
 - f. Restrict certain product types.
 - g. Restrict certain fuel providers or facilities.
 - h. Appropriate fuel type for the vehicle.
6. Assist the State with development, implementation, modification, or enhancement of internal rules and procedures for issuance, security and operational matters relative to the State's fuel card program.
7. The State shall not be liable for charges incurred after verbal or written notice to the vendor to cancel a card. As part of its procedures, the State will recover credit cards whenever possible from employees upon retirement, termination or reassignment of a vehicle.
8. The State shall not be liable for charges incurred by unauthorized users, purchases outside the scope of authorized purchase limits for the specific accounts or purchases processed through a merchant whose Standard Industry Classification Code (SIC Code) is not approved for participation by the State.
9. Provide your security protocols, including mechanisms in place to prevent fraudulent use of your system by company employees and external parties.
10. Provide statistics on fraud associated with your fuel card program during the past three years.
11. Indicate whether customer service assistance calls are routed to a third party at any time and describe your backup system if the 24-hour help line is down.
12. Provide your enrollment strategy including your supplier enrollment resources and whether you outsource supplier enrollment to a third party or handle this activity. Describe your training for station attendants and processes for resolving product-coding issues.



13. Provide for prevention of further and future use (at commercial and State locations) of any individual card (card lockout) immediately with proper notification by the State.
14. Provide for retail fuel purchases of any alternative fuel used by the State, currently or in the future.
15. Provide a real-time, browser-based client interface for account-specific access via any Internet connection with the capability to sort by fields and the ability for an administrator to create organizational hierarchies and move cardholders around within it, including:
 - a. Vehicle ID
 - b. Transaction Date
 - c. License Plate
 - d. Transaction Time
 - e. License Plate State
 - f. Station Brand
 - g. VIN
 - h. Station Name
 - i. Department
 - j. Station Address
 - k. Location Code
 - l. Station City
 - m. Driver Last Name
 - n. Station State and Zip code
 - o. Driver First Name
 - p. Quantity purchased
 - q. Per transaction limit
 - r. Cost per unit
 - s. Daily spending limit
 - t. Total sale
 - u. Daily transaction limit
 - v. Taxes reduced
 - w. Monthly transaction limit
 - x. Internal or pay to the pump
 - y. Monthly spending limit
 - z. Type of product purchased
 - aa. Approved SIC or merchant codes
 - bb. Expiration date
 - cc. Card Status
16. Post Level III fuel transactions to your online system within three days or less from the date of the fuel purchase.
17. Responsibility of payment for commercial fuel cards will rest with the State, and not the individual employee/cardholder. Describe your proposed payment terms.
18. Provide your protocol for compliance with new federal regulations under the **Transportation Act** of 2005 as they relate to treatment of fuel excise taxes. ((While there has been a reprieve from enforcement of the law granted and it may be changed, we are interested in knowing what your planned protocol would be if enforced today))



19. Transition to a fuel card program with cards delivered to the State locations within 30 days after the contract is awarded.
 - a. Deliver initial cards directly to State locations. The state will provide a list of vehicles that includes a code identifying the location each vehicle is assigned. A file that provides the address and location contact for each location code will be provided. There are approximately 1,000 locations. A listing of the cards enclosed and the vehicles that the cards are assigned to must be included with each group of cards shipped.
 - b. Provide a compact list of participating stations or brands be provided to all new recipients during implementation and future additions.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

Vendor shall identify any full or part time personnel. Descriptions of roles should be functional and not just by title. (See information listed in requirements above in PROGRAM SPECIFICATIONS).

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

State staff responsible for this contract shall be the Contract Administrator, David Ancell, for contractual and setup issues. Other department personnel and other units of government personnel will be identified upon contract implementation.

1.203 OTHER ROLES AND RESPONSIBILITIES

Personnel from other departments and other units of government will be identified upon initiation of the accounts.

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

1. The Contractor will carry out the program implementation and ongoing services under the direction and control of the Department of Management and Budget, Purchasing Operations.
2. There will be continuous liaison with the Contractor team and personnel from other departments and local units of government. The Contract Administrator will meet with the Contractor's program manager for the purpose of reviewing performance and providing necessary guidance to the Contractor in solving problems, which arise.
3. The Contractor will submit brief written monthly summaries of performance which outline the work accomplished during the reporting period (in this context reporting period is the prior month); work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the Contract Administrator; and notification of any significant deviation from previously agreed-upon work plans. These reports will be provided monthly until the program is running successfully. At that time contact will be reduced to semi-annually at the Contract Administrator's direction. The Contractor and the Contract Administrator on behalf of the State of Michigan shall continually evaluate the performance, efficiency and effectiveness of the program.



1.302 REPORTS

The credit card system must be capable of generating standard reports that detail cardholder transactions, cardholder listing, supplier information, accounting information at no additional cost and in a variety of formats. When requested, Contractor must be able to provide customized reports within the timeframes indicated in section 1.103, Program Specifications, subsection 11.

1.4 Project Management

1.401 ISSUE MANAGEMENT

Issues are to be resolved by the owner of the fuel card account (Department or other unit of government). Issues should be addressed orally, then if not resolved in writing. If there is still no resolution, the issue should be addressed to the Contract Manager in Purchasing Operations.

1.402 RISK MANAGEMENT

Fuel card risks are a major risk. Contractor will be required to provide information and training to account holders on processes required to prevent fraud. As part of this instruction, the fuel card company should provide detailed information on alerts that they provide for fuel card fraud, what to do when fuel card fraud occurs, and the account holders responsibility for fraudulent transactions. (See information listed in requirements above in PROGRAM SPECIFICATIONS).

1.403 CHANGE MANAGEMENT

If a proposed contract change is approved by the Contract Compliance Inspector (account holder), the Contract Compliance Inspector will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.**

1.5 Acceptance

1.501 CRITERIA

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW. (See requirement information listed in requirements above in PROGRAM SPECIFICATIONS).

1.502 FINAL ACCEPTANCE

We will pay bill if all conditions are met.



1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Pricing

Contractor has provided a pricing schedule based on an estimate of approximately 3500 cards used across 128 agencies.

The Wright Express card is used to purchase fuel at the retail price at the pump with no additional fees or adders to the pump price rather than OPIS plus a contracted margin. Our analysis indicates that, on average, retail pricing is lower than OPIS Plus pricing. Our WEXOnline product's Daily Best Fuel Price feature will help drive the State of Michigan's drivers to the retail stations with the lowest fuel price.

Costs

Card Production

Card production, customization, and distribution will be **free of charge** as summarized below.

- Card customization: \$0.00
- Card distribution via regular mail: \$0.00
- Plastic Card Protectors: \$0.00
- Customization of Embossing Fields: \$0.00
- Card Guides: \$0.00

A charge of \$12.50 overnight courier fee will be assessed only when the State of Michigan requests a replacement card be delivered in this manner. Otherwise all replacement cards will be sent via regular mail **free of charge**.

Reporting

All reporting is provided to the State of Michigan **free of charge**. Access and use of our WEXOnline **is free of charge**. Paper reports will be provided **free of charge**. Report customization will be free of charge.

All reporting is provided to the State of Michigan **free of charge**. Access and use of our WEXOnline **is free of charge**. Paper reports will be provided **free of charge**. Report customization will be **free of charge**.

Costs for Fleet Fueling Card Services:

<u>Service</u>	<u>Fee</u>
Account Set-Up Fee	WAIVED
Monthly Card Charge	WAIVED
Replacement Card Charge	WAIVED
WEXOnline®	WAIVED
WEXLink™	WAIVED

The following fees will only be charged at the State's specific request for these services or by occurrence:

Reproduced VAR	\$25.00
Overnight Mail Fees	\$12.50
Returned Item Fee (NSF/ACH)	\$20.00
General Research Fee	\$15.00

Costs for Maintenance Payment Services:

Purchases made via the Fleet Card	\$0.00
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**Payment Terms:**

If the State of Michigan has a "Prompt Payment Act" applicable to the type of relationship described in this response, Wright Express would agree to comply with that Act or Law. Otherwise, purchases are due and payable in full upon billing. Your account is delinquent if the balance is not paid within 26 days of the billing date appearing on your invoice. Late fees are assessed at a periodic (monthly) rate of 1.83%, and a corresponding Annual Percentage Rate of 22%. In the event that the calculated late fee is less than ten dollars (\$10.00), a minimum late fee of ten dollars (\$10.00) will be charged.

Volume discounts, rebates or signing bonuses being offered in association with your card program:**Valued Customer Volume Incentive**

Wright Express would like to offer the State of Michigan a Valued Customer Volume Incentive. The Valued Customer Volume incentive will be in the form of a **rebate of 60 basis points (0.60%) off all retail and non-fuel transactions** made by the State using the Wright Express Card. This rebate can be in the form of a check or a credit on a subsequent month's invoice.

Contract Signing Bonus

Wright Express would like to offer you a Contract Signing Bonus. This Contract Signing Bonus will be in the form of a payment of **\$2.50 per total Wright Express cards** in use by the State as calculated ninety (90) days after the Contract award date of a Fleet Fuel contract between the parties.

Early Payment Incentive

Wright Express is pleased to offer the State of Michigan an early pay incentive in the form of **25 basis points (0.25%) off all retail transactions** made by the State using the Wright Express Card. This rebate will appear as a credit on a subsequent month's invoice and is conditioned upon receipt of payment in full for the current month's invoice by the tenth (10th) of the month.

Should the State make payment in full on a weekly basis this incentive would be **increased to 30 basis points (0.30%) off all retail transactions**.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW

N/A



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) "Days" means calendar days unless otherwise specified.
- (b) "24x7x365" means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) "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. "Additional Service" does not include New Work.
- (d) "Amendment Labor Rates" means the schedule of fully-loaded hourly labor rates attached as **Article 1, Attachment C**.
- (e) "Audit Period" has the meaning given in **Section 2.111**.
- (f) "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.
- (g) "Incident" means any interruption in Services.
- (h) "Business Critical" means any function identified in any Statement of Work as Business Critical.
- (i) "Deliverable" means physical goods and/or commodities as required or identified by a Statement of Work
- (j) "Key Personnel" means any Personnel designated in **Article 1, Section 1.201 and/or Attachment B**, as Key Personnel.
- (k) "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. "New Work" does not include Additional Service.
- (l) "Services" means any function performed for the benefit of the State.
- (m) "State Location" means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) "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.
- (o) "Work in Process" means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

2.012 Attachments and Exhibits

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

2.013 Statements of Work

(a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.



- (b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
- a description of the Services to be performed by Contractor under the Statement of Work;
 - a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
 - a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
 - all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
 - a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
 - a listing of any Key Personnel of Contractor and/or its SubContractors for that Statement of Work and any future Statements of Work;
 - any other information or provisions the parties agree to include.
- (c) (Reserved).
- (d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

2.014 Issuing Office

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

Irene Pena

Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Phone 517/ 241-1647

2.015 Contract Compliance Inspector

Upon receipt at Purchasing Operations of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with Department of Management, Vehicle and Travel Services, will direct that the person named below, or any other person so designated, be authorized 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 such Contract as that authority is retained by the Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

David Ancell

Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909

2.020 Contract Objectives/Scope/Background

2.021 Background - See section I

**2.022 Purpose - See section I****2.023 Objectives and Scope - See section I****2.024 Interpretation**

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

2.025 Form, Function and Utility

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

2.030 Legal Effect and Term**2.031 Legal Effect**

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.

2.032 Contract Term

This Contract is for a period of three years commencing on October 4, 2006. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to 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.

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to two additional one year periods. Successful completion of negotiations surrounding the terms of the option, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel**2.041 Contractor Personnel**

(a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved SubContractor) and shall be fully qualified to perform the work assigned to them. Contractor shall 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 shall 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.



(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. (See requirement information listed in requirements above in PROGRAM SPECIFICATIONS which provides an organization chart showing the roles of certain Key Personnel.

(ii) Key Personnel shall be dedicated as defined in (See requirement information listed in requirements above in PROGRAM SPECIFICATIONS) 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.

(iii) 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. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced 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. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced 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 shall 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 rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

(A) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.

Additional statement from Contractor: Wright Express understands the State's request to approve personnel changes in regard to the State's support. Due to our need to alter our staffing to best service all of our customers, we are unable to provide the State with exclusive approval rights. However, we will agree to notify the State of support staff changes prior to personnel placement. This will allow the State the opportunity to object as they see fit.

(B) 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 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 personnel for the removed person shall 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 such incident with removed personnel results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted in **Section 2.076** for a time as agreed to by the parties.



(C) Staffing Levels.

(i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial, clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.

(ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.

(D) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its SubContractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

(E) Location. All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.042 Contractor Identification

Contractor employees shall 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.

2.043 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, and, as reasonably requested by the State, to provide to the State's agents and other Contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. 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 such requests for access.

2.044 Subcontracting by Contractor

(a) 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.

(b) 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 SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

(c) 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.

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any SubContractors.

(e) 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.

2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

2.050 State Standards

2.051 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 the Information Technology web-site.

2.052 PM Methodology Standards

The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. See the State's PMM website.

The Contractor shall use the State's PPM to manage this Contract. If the Contractor requires training on the PMM, those costs shall be the responsibility of the Contractor, unless otherwise stated.

2.053 Adherence to Portal Technology Tools

The State has adopted the following tools for its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications



Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with DIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

2.054 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/service/0,1607,7-179-25781-73760--,00.html>. 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.

2.060 Deliverables

2.061 Ordering

Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

2.062 Software (Reserved)

2.63 Hardware (Reserved)

2.064 Equipment to be New and Prohibited Products (Reserved)

2.070 Performance

2.071 Performance, In General

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

2.072 Time of Performance

(a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with 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 2.072(a)**, Contractor shall 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, in such event, shall inform the State of the projected actual delivery date.



(c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

2.073 Liquidated Damages (Reserved)

2.074 Bankruptcy

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within 30 days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, 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 such Works in Process by whatever appropriate method the State may deem expedient. 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 shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

2.075 Time is of the Essence

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

Time is critical in relation to issuance and cancellation of fuel cards, posting of level III data, replacement of lost or stolen cards, generating transaction summary reports, and so on. Vendor must be able to meet the requirements of this contract in an accurate and timely manner.

2.076 Service Level Agreements (SLAs) (Reserved)

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery Responsibilities (Reserved)

2.082 Delivery of Deliverables (Reserved)

2.083 Testing (Reserved)

2.084 Approval of Deliverables, In General (Reserved)



2.085 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 (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of 100 pages or less and ten (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 prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, 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.

2.086 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be 30 Business Days for Services). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Contractor a notice of deficiencies, 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. 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.

2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be 30 continuous Business Days for a Physical Deliverable). 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 prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, 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.

2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. 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.

2.090 Financial**2.091 Pricing**

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO 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.

(b) 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, using the rates in **Pricing sections** Unless specifically identified in an applicable Statement of Work.

(c) 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.

(d) Labor Rates (Reserved)

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) 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.

(ii) 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 minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

(iii) 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 forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

(b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

Wright Express acknowledges the State's claim that it is exempt from Federal Excise Tax, State and Local Sales Taxes and Use Tax with respect to the sale to and use by it of tangible personal property. Wright Express can provide tax exemptions and reporting on fuel and services purchased by the State for its personal use in accordance with our Tax Exemption and Reporting Programs as described in the body of our Response. No additional taxes are charged by Wright Express to the State for use of our charge cards.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, 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 such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.



(d) Pro-ration

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

(e) 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.

(f) 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.

**2.093 State Funding Obligation**

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

2.094 Holdback (Reserved)**2.095 Electronic Payment Availability**

Electronic transfer of funds is available to State Contractors. Contractor is required to register with the State electronically at <http://www.cpexpress.state.mi.us>. Public Act 533 of 2004, requires all payments be transitioned over to EFT by October, 2005.

2.100 Contract Management**2.101 Contract Management Responsibility**

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

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

2.102 Problem and Contract Management Procedures

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

2.103 Reports and Meetings

(a) Reports.

Within 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 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.

2.104 System Changes

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

2.105 (Reserved)

2.106 Change Requests

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

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

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

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

- (a) Change Requests
 - (i) State Requests

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



(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall 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 shall 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").

(v) No proposed Change shall 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.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next 60 days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

2.110 Records and Inspections

2.111a Records and Inspections

(a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) Days prior written notice and at all reasonable times, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that such 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.



(b) Examination of Records. Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon 20 days prior written notice, have access to and the right to 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, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such 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.

(c) Retention of Records. Contractor shall 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 in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall 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.

(d) Audit Resolution. If necessary, the Contractor and the State shall 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 such report, unless a shorter response time is specified in such report. The Contractor and the State shall develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in such audit report.

2.111b Records and Inspections

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall 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 (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement 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 ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

2.120 State Responsibilities

2.121 State Performance Obligations

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

(b) Facilities. The State shall designate space as long as it is available and as provided in the Statement of Work, to house Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by 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 Contractor's use, or to which Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

(c) Return. Contractor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

2.130 Security

2.131 Background Checks

The Contractor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case by case basis. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. Such investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 (Reserved)

2.150 Confidentiality

2.151 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").

2.152 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 shall 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 shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State “Confidential Information” shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

2.153 Protection 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 in order 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) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such 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 such Confidential Information from unauthorized use or disclosure.

2.154 Exclusions

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

2.155 No Implied Rights

Nothing contained in this Section shall 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.

2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

**2.157 Security Breach Notification**

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

2.158 Survival

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

2.159 Destruction of Confidential Information

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

2.160 Proprietary Rights**2.161a**

Ownership of Work Product by State. (Reserved)

2.161b Cross-License (Reserved)**2.163 Rights in Data (Reserved)****2.164 Ownership of Materials (Reserved)****2.165 Standard Software (Reserved)****2.166 Pre-existing Materials for Custom Software Deliverables (Reserved)****2.167 General Skills**

Notwithstanding anything to the contrary in this Section, each party, its SubContractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.



2.170 Warranties And Representations

2.171 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall 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 such items in this Contract, Contractor shall 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, shall have, or shall 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 shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall 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 shall 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 such 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 Contractor for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Contractor; 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 such financial statements, reports, other information. Since the respective dates or periods covered by such 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 behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such 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 such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Software Warranties (Reserved)

2.173 Equipment Warranty (Reserved)

2.174 Physical Media Warranty (Reserved)

2.175a DISCLAIMER

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.175b Standard Warranties

(a) Warranty of Merchantability

Deliverables shall be merchantable. All Deliverables shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor on the container or label.

(b) Warranty of fitness for a particular purpose

When Contractor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Contractor's skill or judgment to select or furnish suitable Deliverables, the Contractor warrants that the Deliverables are fit for such purpose.

(c) Warranty of title

Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

2.176 Consequences For Breach

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



2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to 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 such 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 pursuant to 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 shall 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 shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html.

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

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("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) shall 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 ten (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 and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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
 \$500,000 Fire Damage Limit (any one fire)

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 in accordance with 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 shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

4. Employers liability insurance with the following minimum limits:

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

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

(b) SubContractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall 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) shall 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.



(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall 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.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If 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, at the State's election (but without any obligation to do so) after the State has given Contractor at least 30 days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.190 Indemnification

2.191 Indemnification

(a) General Indemnification

To the extent permitted by law, the Contractor shall 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.

(b) 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.

(c) Employee Indemnification

In any and all 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 shall 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.

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall 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 such 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 such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such 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 shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such 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 such 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 shall have 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; or (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.

2.192 Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to 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 prior to expiration or cancellation.

2.193 Indemnification Procedures

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

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such 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 Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall 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 prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

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



2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract or \$200,000 which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

Neither the Contractor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall 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.

2.202 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 such 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 such party; provided the non-performing party and its SubContractors are without fault in causing such default or delay, and such 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.

In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (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 shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall 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 Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

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.



2.203 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 manmade disaster.

2.210 Termination/Cancellation by the State

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

2.211 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than 30 days, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for 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 shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

(c) In the event 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 shall 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 shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

2.212 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall 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 prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

**2.213 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 shall have the right to 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 shall give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or such 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 made available, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such 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 such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall 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. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/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.

2.214 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 incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

2.215 Approvals Rescinded

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. 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 such written notice.

2.216 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (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) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will 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 shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such 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) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to 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 pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be 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 shall have the right to assume, at its option, any and all 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.

2.217 Reservation of Rights

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

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise 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. In the event of termination or the expiration of this Contract, 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 90 days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall 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 shall 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.

(b) Information - 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.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall 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 shall, 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.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall 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 specified by **Exhibit D**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.219 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.

2.220 Termination by Contractor

2.221 Termination by Contractor

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than 30 days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

2.230 Stop Work

2.231 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 shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of 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 shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall 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 2.106**.

2.233 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, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 (Reserved)



2.250 Dispute Resolution

2.251 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 shall 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 shall submit a letter executed by Contractor's Contract Administrator or his 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 supporting data provided with such an affidavit are current and complete to Contractor's best knowledge and belief.

2.252 Informal Dispute Resolution

(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order 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 shall 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, shall issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** 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 pursuant to **Section 2.253**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such 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.

2.254 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 shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.



2.260 Federal and State Contract Requirements

2.261 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 pursuant to 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.

2.262 Unfair Labor Practices

Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall 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 pursuant to 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, shall not enter into a contract with a SubContractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to 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.

2.263 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor shall 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 shall 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>.

2.270 Litigation

2.271 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 thereto, to which Contractor (or, to the extent Contractor is aware, any SubContractor hereunder) 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 hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any SubContractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. 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. In the event that any such Proceeding disclosed to the State pursuant to 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 hereunder) to continue to perform this Contract in accordance with its terms and conditions, or (ii) whether Contractor (or a SubContractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (A) Contractor and/or its SubContractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and (B) Contractor and/or its SubContractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding. (C) Contractor shall 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 shall notify the Office of Purchasing Operations.

(2) Contractor shall also notify the Office of Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor shall also notify Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.272 Governing Law

The Contract shall in all respects be governed by, and construed in accordance with, 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.

2.273 Compliance with Laws

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

2.274 Jurisdiction

Any dispute arising from the Contract shall 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 such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such 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.

2.280 Environmental Provision

2.281 Environmental Provision

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil, etc., and any other material the manufacture, use, treatment, storage, transportation or disposal of which is regulated by the federal, state or local laws governing the protection of the public health, natural resources or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.



(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

2.290 *General*

2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to 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 such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such 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. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

**2.293 Entire Contract; 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 such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.

(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 **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 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.

2.295 Relationship of the Parties (Independent Contractor Relationship)

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 shall be or shall 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.

2.296 Notices

(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such 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 (3rd) 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:

Irene Pena
State of Michigan
Purchasing Operations
Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor(s):

Fred Madeira, Contracting Agent
Wright Express Financial Services Corporation
3995 South 700 East, Suite 450
Salt Lake City, UT 84107

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

(b) **Binding Commitments**

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

**2.297 Media Releases and Contract Distribution****(a) Media Releases**

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) Contract Distribution

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

2.298 Reformation and Severability

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

2.299 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, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

2.300 No Waiver of Default

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall 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.

2.302 Covenant of Good Faith

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall 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.

2.303 Permits

Contractor shall 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 shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.304 Website Incorporation

State expressly states that it will not be 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 such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

**2.305 Taxes**

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

2.306 Prevailing Wage

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its SubContractors, their SubContractors, and all persons involved with the performance of this Contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general Contractors, prime Contractors, project managers, trade Contractors, and all of their Contractors or SubContractors and persons in privity of contract with them.

The Contractor, its SubContractors, their SubContractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.307 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 shall be a material breach of this Contract.

2.308 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 Contractor if the State determines that the Contractor 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 leading edge on the competitive RFP.

2.310 (Reserved)



2.320 Extended Purchasing

2.321 MiDEAL

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at:

<http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

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

2.322 State Employee Purchases (Reserved)

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements (Reserved)