



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

**CONTRACT CHANGE NOTICE**

Change Notice Number **8**  
 to  
 Contract Number **071B4300139**

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Amy Tinsley
	740-497-1389
	amy.tinsley@equifax.com
	CV0061824

<b>STATE</b>	Program Manager	Various	MULTI
	Contract Administrator	Jillian Yeates (517) 275-1131 yeatesj@michigan.gov	DTMB

**CONTRACT SUMMARY**

**EMPLOYMENT VERIFICATION**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2021

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		June 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$19,779,000.00	\$615,439.00	\$20,394,439.00		

**DESCRIPTION**

Effective August 10, 2021, this Contract is increased by \$615,439.00 for payment on invoices from contract activity that occurred prior to the Contract expiration date.

All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency Agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on August 10, 2021.

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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
LEO	Nathan Kammer	517-335-5035	kammern@michigan.gov
MSHDA	Lisa Dove	517-241-2561	dovel1@michigan.gov



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

**CONTRACT CHANGE NOTICE**

Change Notice Number 7  
 to  
 Contract Number 071B4300139

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Amy Tinsley
	740-497-1389
	amy.tinsley@equifax.com
	CV0061824

<b>STATE</b>	Program Manager	Various	MDHHS
	Contract Administrator	Jillian Yeates	DTMB
		(517) 275-1131 yeatesj@michigan.gov	

**CONTRACT SUMMARY**

**EMPLOYMENT VERIFICATION**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2021

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**  
 N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
\$19,779,000.00	\$0.00	\$19,779,000.00

**DESCRIPTION**

Effective January 19, 2021, please note the following:

The Contractor's Contact has been changed to Amy Tinsley (Section 1.031).

The Program Manager for MSHDA has been changed to Marshall Brooks (Section 2.022).

All other terms, conditions, pricing and specifications remain the same. Per Contractor and agency agreement and DTMB Central Procurement Services approval.

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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
LEO	Nathan Kammer	517-335-5035	kammern@michigan.gov
MSHDA	Lisa Dove	517-241-2561	dovel1@michigan.gov



**STATE OF MICHIGAN**  
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**CONTRACT CHANGE NOTICE**

Change Notice Number **6**  
 to  
 Contract Number **071B4300139**

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Raj Sivaram
	703-967-7577
	raj.sivaram@equifax.com
CV0061824	

<b>STATE</b>	Program Manager	Various	MDHHS
<b>STATE</b>	Contract Administrator	Jillian Yeates	DTMB
		(517) 275-1131	
		yeatesj@michigan.gov	

**CONTRACT SUMMARY**

**EMPLOYMENT VERIFICATION**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2021

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**  
 N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
\$15,279,000.00	\$4,500,000.00	\$19,779,000.00

**DESCRIPTION**

Effective June 23, 2020, this Contract is increased by \$4,500,000.00 and pricing on this Contract is updated for Department of Human Services per the attached. Please note, the Contractor contact has been updated to Raj Sivaram (Section 1.031). All other terms, conditions, specifications and pricing remain the same. Per Contractor and agency agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on June 23, 2020.

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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
LEO	Nathan Kammer	517-335-5035	kammern@michigan.gov
MSHDA	Lisa Dove	517-241-2561	dovel1@michigan.gov

**Pricing For State of Michigan DHHS**

**Effective Date:** 7/1/2020  
**Contract Revision Date:** 6/23/2020  
**Contract Term:** As noted below

**State of Michigan DHHS and LEO**

**PRODUCT: THE WORK NUMBER EXPRESS SOCIAL SERVICE**

**USE-CASE: VERIFICATION OF EMPLOYMENT AND INCOME**

**Option Yr 7: 7/1/2020 - 6/30/2021**

<b>Available Tiers</b>	<b>Monthly Minimum</b>	<b>Monthly Ceiling</b>	<b>Minimum ** Annual Price</b>	<b>Overage Fee (Per Hit)</b>
3	\$254,625.00	52,500	\$3,055,500	\$4.85

\*\*MI DHHS will commit to an annual tier. DHHS wants to incur overage charges monthly. LEO will be invoiced for 866 hits per month.



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**CONTRACT CHANGE NOTICE**

Change Notice Number **5**  
 to  
 Contract Number **071B4300139**

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Jason Pelzer
	513-630-4640
	jason.pelzer@equifax.com
CV0061824	

<b>STATE</b>	Program Manager	Various - See Attached	MULTI
	Contract Administrator	Jillian Yeates	DTMB
		(517) 275-1131 yeatesj@michigan.gov	

**CONTRACT SUMMARY**

**EMPLOYMENT VERIFICATION**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2021

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**  
 N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
\$15,279,000.00	\$0.00	\$15,279,000.00

**DESCRIPTION**

Effective October 1, 2019, the following changes are hereby incorporated into the Contract:

- The Labor and Economic Opportunity Agency (LEO) is added as a user to this Contract per Section 2.024. Within LEO, the Michigan State Housing Development Authority (MSHDA) and the Michigan Rehabilitation Services (MRS) (formally underneath DHHS) will be utilizing the Contractor's Work Number Express Social Service for Verification of Employment and Income and will be bound by the terms and conditions of the Contract.
- The pricing terms have been updated per the attached Attachment A Pricing Sheet - Revised.
- DHHS Program Manager, Nathan Krammer, has been amended as a Program Manager for LEO.
- Lisa Dove has been added as an additional Program Manager for MSHDA.

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement and Central Procurement Services approval.



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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
LEO	Nathan Kammer	517-335-5035	kammern@michigan.gov
MSHDA	Lisa Dove	517-241-2561	dovel1@michigan.gov

**Pricing For State of Michigan DHHS**

**Effective Date:** 7/1/2019  
**Contract Revision Date:** 10/1/2019  
**Contract Term:** As noted below

**State of Michigan DHHS and LEO**

**PRODUCT: THE WORK NUMBER EXPRESS SOCIAL SERVICE**

**USE-CASE: VERIFICATION OF EMPLOYMENT AND INCOME**

**Option Yr 6: 7/1/2019 - 6/30/2020**

Available Tier	Monthly Minimum	Monthly Ceiling	Minimum ** Annual Price	Overage Fee (Per Hit)
1	\$230,553.18	48,334	\$2,766,638	\$4.77

\*\*MI DHHS has committed to 580,008 transactions annually. DHHS wants to incur overage charges monthly. LEO will be invoiced for 866 hits per month.

**Option Yr 7: 7/1/2020 - 6/30/2021**

Available Tiers	Monthly Minimum	Monthly Ceiling	Minimum ** Annual Price	Overage Fee (Per Hit)
1	\$229,191.36	39,584	\$2,750,296	\$5.79
2	\$239,736.64	48,334	\$2,876,840	\$4.96
3	\$254,625.00	52,500	\$3,055,500	\$4.85
4	\$274,834.95	56,667	\$3,298,019	\$4.85

\*\*MI DHHS will commit to an annual tier. DHHS wants to incur overage charges monthly. LEO will be invoiced for 866 hits per month.

**State of Michigan - Guaranty Agency**

Product	Contract Term	Per Transaction Rate
Commercial Verification of Employment	Option Yr 6: 7/1/2019 - 6/30/2020	\$12.00
	Option Yr 7: 7/1/2020 - 6/30/2021	\$12.48

Agency will be billed monthly at the rate associated with the actual usage achieved during that month.

**OTHER CHARGES**

<b>Account Service Fee (Monthly Charge)</b>	
State of Michigan DHHS	\$2,000
State of Michigan - Guaranty Agency	\$325

<b>Pricing Terms &amp; Conditions:</b>
The above pricing reflects the rate for each successful hit and is based on one use/decision per hit.
A hit is defined by a database search which successfully returns data.
<b>Option 1:</b> At least 30 days prior to the effective date of each contract year, customer must select a rate option to be assigned for the next 12 months. If no tier is selected, the default tier will be Tier 2. Additionally only 3 tiers will be available for any given year. State must identify which tiers they want available prior to the start of Option Year 6
Agency will be charged the greater of the selected Minimum Monthly Fee for the product listed above or the actual billed charges for each month. Agency agrees and acknowledges that the Minimums will be due and payable even when no Transactions are processed during the period. Each Transaction performed above the Monthly Transactional Ceiling will be charged at the applicable Overage Rate Per Transaction and will also be billed monthly.

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 P.O. BOX 30026 LANSING, MICHIGAN 48909



**CONTRACT CHANGE NOTICE**

Change Notice Number **4**  
 to  
 Contract Number **071B4300139**

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Jason Pelzer
	513-630-4640
	jason.pelzer@equifax.com
	CV0061824

<b>STATE</b>	Program Manager	Various, see attached	MULTI
	Contract Administrator	Jillian Yeates	DTMB
		(517) 275-1131 yeatesj@michigan.gov	

**CONTRACT SUMMARY**

**EMPLOYMENT VERIFICATION**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2019

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 Years	<input type="checkbox"/>	N/A	June 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$8,404,000.00	\$6,875,000.00	\$15,279,000.00		

**DESCRIPTION**

Effective May 15, 2019, this Contract is amended as follows:

- This Contract is exercising both option years and is increased by \$6,875,000.00. The revised contract expiration date is June 30, 2021.
- Pricing has been updated per the attached Attachment A Pricing Sheet - Revised.
- Nathan Kammer has been added as an additional Program Manager for DHHS. (Section 2.022)

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, Central Procurement Services approval, and State Administrative Board approval on February 26, 2019.

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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
MDHHS	Nathan Kammer	517-335-5035	kammern@michigan.gov

## State of Michigan DHHS

PRODUCT: THE WORK NUMBER EXPRESS SOCIAL SERVICE

USE-CASE: VERIFICATION OF EMPLOYMENT AND INCOME

### Option Yr 6: 7/1/2019 - 6/30/2020

Available Tiers	Monthly Fixed Fee	Annual Hits Included	Annual Price	Overage Fee (Per Hit)
4	\$230,550.00	580,000	\$2,766,600	\$4.77

### Option Yr 7: 7/1/2020 - 6/30/2021

Available Tiers	Monthly Fixed Fee	Annual Hits Included	Annual Price	Overage Fee (Per Hit)
1	\$229,187.50	475,000	\$2,750,250	\$5.79
2	\$239,733.33	580,000	\$2,876,800	\$4.96
3	\$254,625.00	630,000	\$3,055,500	\$4.85
4	\$274,833.33	680,000	\$3,298,000	\$4.85

## State of Michigan - Guaranty Agency

Product	Contract Term	Per Transaction Rate
Commercial Verification of Employment	Option Yr 6: 7/1/2019 - 6/30/2020	\$12.00
	Option Yr 7: 7/1/2020 - 6/30/2021	\$12.48

## OTHER CHARGES

Account Service Fee (Monthly Charge)	
State of Michigan DHHS	\$2,000
State of Michigan - Guaranty Agency	\$325



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

**CONTRACT CHANGE NOTICE**

Change Notice Number **3**

to

Contract Number **071B4300139**

<b>CONTRACTOR</b>	TALX CORPORATION
	4076 Paysphere Circle
	Chicago, IL 60674
	Jason Pelzer
	513-630-4640
	jason.pelzer@equifax.com
CV0061824	

<b>STATE</b>	<b>Program Manager</b>	See Attached	MULTI
	<b>Contract Administrator</b>	Jillian Yeates	DTMB
		(517) 275-1131	
		yeatesj@michigan.gov	

**CONTRACT SUMMARY**

<b>EMPLOYMENT VERIFICATION</b>			
<b>INITIAL EFFECTIVE DATE</b>	<b>INITIAL EXPIRATION DATE</b>	<b>INITIAL AVAILABLE OPTIONS</b>	<b>EXPIRATION DATE BEFORE</b>
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2019
<b>PAYMENT TERMS</b>		<b>DELIVERY TIMEFRAME</b>	
Net 45		N/A	
<b>ALTERNATE PAYMENT OPTIONS</b>			<b>EXTENDED PURCHASING</b>
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<b>MINIMUM DELIVERY REQUIREMENTS</b>
N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$7,779,000.00	\$625,000.00	\$8,404,000.00		

**DESCRIPTION**

Effective March 8, 2019, this Contract is amended as follows:

- This Contract is increased by \$625,000.00 for the Department of Health and Human Services (DHHS) and Treasury (TREA) use.
- Section 2.201, Nondiscrimination, is hereby deleted and replaced with the following:  
 "2.201 Nondiscrimination. Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and Executive Directive 2019-09. Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract."
- The Contractor's contact has been changed to Jason Pelzer (Section 1.031).
- The Program Manager for the Department of Treasury has been changed to Dan Mullin (Section 2.022).

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, Central Procurement Services approval, and State Administrative Board approval on February 26, 2019.



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

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
TREA	Dan Mullin	517-373-1402	mullind@michigan.gov
MDHHS	Lisa Listman	517-241-9153	listmanl@michigan.gov



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

**CONTRACT CHANGE NOTICE**

Change Notice Number 2

to

Contract Number 071B4300139

<b>CONTRACTOR</b>	Talx Corporation
	4076 Paysphere Circle
	Chicago, IL 60674
	Michael Glielmi
	314-684-2306
	michael.glielmi@equifax.com
CV0061824	

<b>STATE</b>	<b>Program Manager</b>	Lisa Listman	MDHHS
		517-241-9153	
		listmanl@Michigan.gov	
	<b>Contract Administrator</b>	Jillian Yeates	DTMB
		(517) 275-1131	
		yeatesj@michigan.gov	

**CONTRACT SUMMARY**

<b>EMPLOYMENT VERIFICATION</b>			
<b>INITIAL EFFECTIVE DATE</b>	<b>INITIAL EXPIRATION DATE</b>	<b>INITIAL AVAILABLE OPTIONS</b>	<b>EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW</b>
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2019
<b>PAYMENT TERMS</b>		<b>DELIVERY TIMEFRAME</b>	
Net 45		N/A	
<b>ALTERNATE PAYMENT OPTIONS</b>			<b>EXTENDED PURCHASING</b>
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<b>MINIMUM DELIVERY REQUIREMENTS</b>
N/A

**DESCRIPTION OF CHANGE NOTICE**

<b>OPTION</b>	<b>LENGTH OF OPTION</b>	<b>EXTENSION</b>	<b>LENGTH OF EXTENSION</b>	<b>REVISED EXP. DATE</b>
<input type="checkbox"/>		<input type="checkbox"/>		
<b>CURRENT VALUE</b>	<b>VALUE OF CHANGE NOTICE</b>	<b>ESTIMATED AGGREGATE CONTRACT VALUE</b>		
\$6,129,000.00	\$1,650,000.00	\$7,779,000.00		

**DESCRIPTION**

Effective April 24, 2018, this Contract is hereby increased by \$1,650,000.00. All other terms, conditions, specifications and pricing remain the same. Per vendor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on April 24, 2018.



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

**CONTRACT CHANGE NOTICE**

Change Notice Number 1

to

Contract Number 071B4300139

<b>CONTRACTOR</b>	Talx Corporation
	4076 Paysphere Circle
	Chicago, IL 60674
	Michael Glielmi
	314-684-2306
	michael.glielmi@equifax.com
CV0061824	

<b>STATE</b>	<b>Program Manager</b>	Lisa Listman	MDHHS
		517-241-9153	
		listmanl@Michigan.gov	
	<b>Contract Administrator</b>	Jillian Yeates	DTMB
		(517) 275-1131	
		yeatesj@michigan.gov	

**CONTRACT SUMMARY**

EMPLOYMENT VERIFICATION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July 1, 2014	June 30, 2019	2 - 1 Year	June 30, 2019
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS
N/A

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$5,630,000.00	\$499,000.00	\$6,129,000.00		

**DESCRIPTION**

Effective March 22, 2018:

- This Contract is increased by \$499,000.00 for DHHS and Treasury use.
- All references to "Purchase Order(s)" for new requests will hereinafter be referred to as "Delivery Order(s)", (e.g. Section 1.070, 2.001, 2.003, 2.005, 2.040).
- Please note, the Contract Administrator has been changed to Jillian Yeates (Section 2.021). In addition, the Contractor's Contact has been changed to Michael Glielmi (Section 1.031).

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement and DTMB-Procurement approval.

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

**NOTICE  
 OF  
 CONTRACT NO. 071B4300139  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Talx Corporation 4076 Paysphere Circle Chicago, IL 60674-4076	Sara LaRocca	Sara.Larocca@equifax.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	314-214-7727	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
BUYER:	DTMB	Pamela Platte	517-284-7022	plattpe@michigan.gov

CONTRACT SUMMARY:			
<b>DESCRIPTION: Descriptive Contract Title (Not always the same language as provided in MAIN)</b>			
DHS and Treasury - Employment Verification Services			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
Five years	July 1, 2014	June 30, 2019	2: one year
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
45 days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$5,630,000.00

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

**CONTRACT NO. 071B4300139**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Talx Corporation 4076 Paysphere Circle Chicago, IL 60674-4076	Sara LaRocca	Sara.Larocca@equifax.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	314-214-7727	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DHS	Lisa Listman	517-241-9153	listmanl@michigan.gov
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45 days	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$5,630,000.00	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #07113200041. Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

**Contract #:** 071B4300139

FOR THE CONTRACTOR:	FOR THE STATE:
Equifax Firm Name	Signature Sharon Walenga-Maynard, Sourcing Director
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	DTMB Procurement Enter Name of Agency
Date	Date



**STATE OF MICHIGAN**  
**Department of Technology, Management and Budget**  
**DTMB-Procurement**

Contract No. [071B4300139](#)  
[Employment Verification Services](#)

Buyer Name: Pamela Platte  
Telephone Number: [517-284-7022](tel:517-284-7022)  
E-Mail Address: [plattep@michigan.gov](mailto:plattep@michigan.gov)



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## **DEFINITIONS**

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

**Additional Service** means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

**Audit Period** means the seven year period following Contractor's provision of any work under the Contract.

**Bidder(s)** are those companies that submit a proposal in response to this RFP.

**Business Day** means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

**Blanket Purchase Order** is an alternate term for Contract and is used in the State of Michigan's computer system.

**CCI** means Contract Compliance Inspector.

**Days** means calendar days unless otherwise specified.

**Deleted – N/A** means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

**Deliverable** means physical goods and/or services required or identified in a Statement of Work.

**DTMB** means the Michigan Department of Technology Management and Budget.

**Incident** means any interruption in any function performed for the benefit of a Plan Sponsor.

**Key Personnel** means any personnel identified in **Section 1.031** as Key Personnel.

**New Work** means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.

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

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

**Services** means any function performed for the benefit of the State. A service used to verify employment and income information about individuals ("Consumers"), and various other services used to verify certain consumer information.

**SLA** means Service Level Agreement.

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

**Subcontractor** means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

**Unauthorized Removal** means the Contractor's removal of Key Personnel without the prior written consent of the State.

**Waste Prevention** means source reduction and reuse, but not recycling.



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

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

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



## **Article 1 – Statement of Work (SOW)**

### **1.010 Project Identification**

#### **1.011 Project Request**

This is a Contract for web-based interstate automated employment and income verification services for both the Michigan Department of Treasury Michigan Finance Authority, Office of Michigan Guaranty Agency (MGA), who serves as the federally recognized guarantor of the post-secondary loan programs in the State of Michigan, and the Michigan Department of Human Services (DHS).

Treasury will use the system to obtain information on defaulted loan borrowers.

DHS will utilize the system to allow DHS workers to search the database using a Social Security number. This system is intended to reduce workload demands, increase payment accuracy and aid in the identification of fraudulent activities.

#### **1.012 Background**

##### Treasury

Federal Regulations require MGA to pursue collections on Agency held defaulted educational loans. As part of these regulations, MGA obtains employment information on defaulted loan borrowers for the exclusive purpose of wage garnishment on borrowers that do not submit voluntary monthly payments. Prior to wage garnishment, verification of employment must occur.

##### DHS

To receive any type of financial assistance from DHS, a client must verify their employment status (previous and/or current). Employers who contract with payroll service providers are reluctant to complete the DHS Verification of Employment form. This is explained as a duplication of their time and expense because they contract for this service through other providers. If accessibility to these records is impeded, the eligibility determination for potential benefits for clients is delayed or denied.

The DHS goals in implementing a web-based income and employment verification system are expedient determination of benefits, reduced workload demands, increased payment accuracy, reduced administrative costs, reduced fraud and increased debt repayment. Unlimited online, real-time access to a national employer database using the client Social Security Number (SSN) allows the DHS worker to view and print both reported and unreported employment earnings quickly and accurately in accordance with Attachment A, Pricing Sheet.

Financial programs impacted by this system include:

- Family Independence Program (FIP) which is the State's Temporary Assistance to Needy Families (TANF) program
- State Disability Assistance (SDA)
- Refugee Assistance Program (RAP)
- Food Assistance Program (FAP)
- Medical Assistance (MA)
- Child Development and Care (CDC)
- State Emergency Relief (SER)

The database will be accessed by a variety of offices within DHS. Various tasks will be conducted by the following offices:

- Office of Field Operations, including local county offices State-wide
- Office of Quality Control
- Office of Child Support
- Office of Inspector General

Federal requirements must be followed for each program as explained in the Social Security Act and in the Code of Federal Regulations.



### **1.020 Scope of Work and Deliverables**

#### **1.021 In Scope**

Provide employment verification information to MGA and DHS staff.

Access to a web-based interstate automated employment and income verification system is required that will allow MGA and DHS workers to search the database using a Social Security number.

#### **1.022 Work and Deliverable**

Contractor must provide Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

1. The Contractor must provide MGA with access to employment and/or income data furnished to the Contractor by employers. The Contractor must provide DHS with online verification of employment and/or income using Social Security numbers provided by DHS workers.
2. The Contractor must provide options for downloading and reporting of data in Excel format.
  - a. The Contractor must provide a print option of employment data from the internet web page.
3. The Contractor's verification services must be available Monday through Friday from 7:30 a.m. to 6:00 p.m. EST, excluding federally identified holidays.
4. The Contractor's methods for MGA & DHS users to access help information.
  - a. Toll free (phone number) help access..

Access to help information is preferred during normal business hours, Monday through Friday, 7:30a.m. To 6:00p.m. EST, excluding federal holidays

5. The employee social security number and employer number must be available to MGA and DHS staff.
  - a. The Contractor must provide the use of social security number and employer number to verify employment
6. The Contractor must be able to retrieve historical employment verification records per Attachment A, pricing sheet.
7. The Contractor must be able to provide the MGA user Administrator authority for system administration of user access.

The Contractor must provide DHS with a contact person to communicate with and support DHS users for database issues, User ID issues and password changes. Each DHS worker must be assigned a User ID and password and must be notified of their customized information. Examples of administrative access are:

- a. Assignment of user access including user ID, passwords and maintenance of passwords.
8. The Contractor must provide employment verification information via a toll free phone number and internet. The Contractor must provide up to date, easy to read income verification data with real time access to workers.
9. The Contractor must provide a platform regulated by the FCRA; therefore, is required by Federal law to have procedures in place to address accuracy issues for the employment verification information provided as a result of:



- a. Internet verification
  - b. Phone verification
10. The Contractor must not sell, distribute or disclose any employee information processed as a result of this Contract.
  11. The Contractor must have security in place which requires a unique identifier (username and password) to obtain access.
  12. The Contractor must comply with security requirements as specified in Attachment B.
  13. The Contractor must produce Security Audit Statements as requested.
  14. The Contractor's web exchange must have a minimum 128 bit SSL encryption in all areas where personal information is being sent and/or received.
  15. The Contractor's automated income and employment verification system cannot require any additional software and/or computer programs. Workers must be able to access the database from their desktop computers. The Contractor's income and employment verification system should be user-friendly and easily learned through a Helpdesk or electronic basic training guide. User computers must have Microsoft 6 or higher to operate.
    - a. The Contractor must provide training to the counties when deemed reasonable and necessary by both parties. To ensure successful implementation of the employment verification system, the Contractor must offer training to ensure that staff can and will use the services to maximize the savings.
    - b. Training will continue to be provided throughout the year for new agency staff, or as a refresher for current staff. Online Training tools will include the "How To" reference cards and online self-training. The Contractor will also provide access to a toll-free call center, and a dedicated Client Relationship Manager to support any account demands.
    - c. The training in each class must be performed to ensure all users are comfortable with the features of the service and understand permissible purpose. The Contractor must provide an employee for each class who must walk through the service with attendees and must field questions. The Client Relationship Manager (CRM) that is designated to this Contract will be introduced to the staff members. The CRM will be the day-to-day contact for all staff members for any questions.
    - d. Training classes will last around one hour, depending upon questions from the attendees and subject materials must be provided.
    - e. The Contractor will come to sites the State believes are necessary and will hold web-based trainings for others.
    - f. The Contractor will provide training to the State at no cost.
  16. The Contractors database will be updated as its employers database is updated.
  17. The Contractor must provide history for up to 36 months per employee. Employment history will be available for any period of time. The Contractor must maintain employment records for an employer for the life of the Contract.

### **1.030 Roles and Responsibilities**

#### **1.031 Contractor Staff, Roles, and Responsibilities**





## Key Personnel:

Sara LaRocca  
 Client Relationship Manager, Government Client Services-Verification Services  
 Phone: [kelly.meddows@equifax.com](mailto:kelly.meddows@equifax.com)  
 Email: (314) 214-7727

Shelley Kirchoff Manager, Government Client Services

Debbie Rohlman  
 Vice President, Government Sales and Services

### **1.040 Project Plan**

#### **1.041 Project Plan Management**

##### Treasury

1. The Contractor will carry out this project under the direction and control of the Contract Compliance Inspector (CCI).
2. Although there will be continuous liaison with the Contractor team, the CCI will meet monthly at minimum, or as requested by the CCI, with the Contractor's project manager for the purpose of reviewing projects and providing necessary guidance to the Contractor in solving problems which arise.
3. Within five working days of the award of the Contract, the Contractor will submit to the CCI for final approval a work plan. This final implementation plan must be in agreement as proposed by the Contractor and accepted by the State for Contract, and must include the following:
  - a. The Contractor's project organization structure.
  - b. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
  - c. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.

##### DHS

1. The Contractor must meet with senior officials of DHS within two weeks of the award of the Contract to discuss the plan for the Contract. An outline of the intended usage report, with a timeline for completing the implementation phase, is due to the DHS CCI by 30 days after DTMB's signing of the Contract.
2. After the initial meeting, the Contractor must meet, as requested, with DHS staff to develop detailed schedules, timelines, and review of progress of evaluation prior to finalization of the reports.

#### **1.042 Reports**

To monitor accessibility and to continually assess the effectiveness of the service, DHS requires monthly usage reports for each program office for the duration of the Contract. If performance is not satisfactory, more frequent reporting may be required. DHS retains approval of report format and delivery method.

At a minimum, the usage reports must contain the following data elements:

- date and time of the transaction
- type of transaction
- user name
- user ID number
- user county (including district, if applicable)



DHS requires three levels of identification in user ID numbers, which are assigned by the Contractor: one level for each DHS administration, one level for each specific location, and one for each individual worker. The usage reports must include the user ID's and be able to be sorted by the three levels of identification.

The data elements to be displayed by query to the database must include the following, at a minimum:

<b>Required data elements</b>
<b>Employment Information</b>
Employee's name
Employment status (active or inactive)
Hire date
Termination date, if applicable
Average hours per pay period
Rate of pay
Pay cycle (weekly, bi-weekly, etc.)
<b>Income Information</b>
Pay period end date
Pay date
Hours worked
Gross earnings
Net earnings

**1.050 Acceptance**

**1.051 Criteria**

The following criteria will be used by the State to determine Acceptance of the Services provided under this Contract:

Access to the system must be available for the time periods stipulated. The required data elements must be available for inquiry and other Contract requirements must be met.

The State must have the opportunity to review the reports to determine if:

- 1) Errors are noted in the report or,
- 2) The State does not agree with facts in the report,
- 3) Additional adjustments or clarifications are needed in the report.

Once the State makes any corrections to the preliminary reports, and forwards the corrected document to the Contractor within seven business days, the Contractor must forward the State the final report for review and comment.

**1.052 Final Acceptance – Deleted – N/A**



**1.060 Proposal Pricing**

**1.061 Proposal Pricing**

1. For authorized Services and Price List, see Attachment A.
2. Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See [www.michigan.gov/dtmb](http://www.michigan.gov/dtmb) for current rates.
3. The Contractor must provide monthly invoices to the State. Invoices are to include invoice date, billing period, number of employment inquiries, price per inquiry and total cost.

**1.062 Price Term**

Prices quoted are firm for the entire length of the Contract.

**1.064 Holdback - Deleted - N/A**

**1.070 Additional Requirements**

**1.071 Additional Terms and Conditions specific to this RFP**

DHS and the Department of Treasury issue a separate purchase order (contract release) for each State fiscal year. The fiscal year starts on October 1 and ends on September 30. The contract is based on estimated usage, which may or may not increase or decrease depending on unknown factors.

The Contractor and DHS/Treasury Project Manager/CCI will review progress and service quality each fiscal year, or more frequently as needed.



## **Article 2, Terms and Conditions**

### **2.000 Contract Structure and Term**

#### **2.001 Contract Term**

The Contract is for a period of five years beginning July 1, 2014 through June 30, 2019. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

#### **2.002 Options to Renew**

The 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 extension, will be a pre-requisite for the exercise of any option year. In no event shall the renewal options exceed 107% of the original contract value.

#### **2.003 Legal Effect**

Contractor must show acceptance of the Contract by signing two (2) copies of the Contract and returning them to the Contract Administrator. The Contractor must not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

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

#### **2.004 Attachments & Exhibits**

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

#### **2.005 Ordering**

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services under the Contract. All orders are subject to the terms and conditions of the Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor must furnish all such materials and services as may be ordered during the CONTRACT period.

#### **2.006 Order of Precedence**

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

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



### **2.007 Headings**

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

### **2.008 Form, Function & Utility**

If the Contract is for use of more than one (1) State agency and if the Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure Service from another source.

### **2.009 Reformation and Severability**

Each provision of the Contract is severable from all other provisions of the Contract and, if one (1) or more of the provisions of the Contract is declared invalid under applicable law in any jurisdiction, the remaining provisions of the Contract remain in full force and effect.

### **2.010 Consents and Approvals**

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

### **2.011 No Waiver of Default**

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

### **2.012 Survival**

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

## **2.020 Contract Administration**

### **2.021 Issuing Office**

The Contract is issued by the Department of Technology Management and Budget, DTMB-Procurement the Department of Treasury MGA, and Department of Human Services (collectively, including all other relevant State of Michigan departments and agencies, the "State"). DTMB-Procurement is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. DTMB-Procurement **is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of the Contract.** The Contract Administrator within DTMB-Procurement for the Contract is:

Pamela Platte  
 Procurement  
 Department of Technology Management and Budget  
 Constitution Hall, 1st Floor NE  
 PO Box 30026  
 Lansing, MI 48909  
 Email: plattep@michigan.gov  
 Phone: 517-284-7022

### **2.022 Contract Compliance Inspector**

After DTMB-Procurement receives the properly executed Contract, it is anticipated that the Director of DTMB-Procurement, in consultation with the Department of Treasury MGA, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of the Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB Procurement.** The CCI for the Contract is:

**Department of Treasury**

Janet McKeown, Operations Manager  
Lansing, MI  
McKeownJ@michigan.gov  
Phone: 517-335-1723

**Department of Human Services**

Lisa Listman, Field Operations Administration  
Lansing, MI  
listmanl@michigan.gov  
Phone: 517-241-9153

**2.023 Project Manager – Deleted – N/A****2.024 Change Requests**

The State reserves the right to request, from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/. 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 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 has no right to claim thereafter that it is entitled to additional compensation for performing that service. If the Contractor does so notify the State, then such a service shall be governed by the Change.

**Change Requests:****(a) 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").

**(b) 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.

**(c)** 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 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 as authorized by the State's Contract Administrator.

**(d)** By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under the Contract, describing the Change and its effects on the Services and any affected components of the Contract (a "Contract Change Notice").



- (e) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by DTMB-Procurement and approved by the Contract Administrator.
- (f) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, such activities shall be considered to be performed gratuitously by Contractor and Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

**2.025 Notices**

Every notice required under this Contract shall be in writing and effective seven (7) days after being mailed first class postage prepaid, or upon delivery by an overnight or other courier or delivery service or by email, in either case addressed as follows:

To the State:  
State of Michigan  
DTMB, Procurement  
525 W. Allegan St.  
P.O. Box 30026  
Lansing, MI 48909

To Contractor:  
TALX Corporation  
11432 Lackland Road  
St. Louis, MO 63146  
Attn: President

Department of Treasury  
Janet McKeown  
Operations Manager  
430 West Allegan 2<sup>nd</sup> Floor  
Lansing, MI 48922

Department of Human Services  
Lisa Listman  
Field Operations Administration  
235 S. Grand Avenue, Suite 1403  
Lansing, MI 48933

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

**2.026 Binding Commitments**

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

**2.027 Relationship of the Parties**

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

**2.028 Covenant of Good Faith**

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

**2.029 Assignments**



(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party which consent shall not be unreasonably withheld.

### **2.030 General Provisions**

#### **2.031 Media Releases**

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

#### **2.032 Contract Distribution**

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

#### **2.033 Permits**

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

#### **2.034 Website Incorporation**

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

#### **2.035 Future Bidding Preclusion**

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

#### **2.036 Freedom of Information**

All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

#### **2.037 Disaster Recovery**

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

### **2.040 Financial Provisions**

#### **2.041 Fixed Prices for Services/Deliverables**

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

#### **2.042 Adjustments for Reductions in Scope of Services**

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



**2.043 Services/ Covered**

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

**2.044 Invoicing and Payment – In General**

- (a) Each Statement of Work issued under the Contract must list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services and commodities to be provided, and the associated payment milestones and payment amounts.
- (b) Each Contractor invoice must show details as to charges by Service 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 must 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
- (c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered. For invoices paid beyond 45 days after receipt, Contractor may charge one and a half (1.5%) percent interest per month applied over sixty (60) days unless the invoice is being actively disputed. Invoices outstanding beyond sixty (60) days will result in a temporary suspension of Services until all outstanding undisputed payments are remitted to Contractor.

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) must mutually agree upon. The schedule must show payment amount and must reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

**2.045 Pro-ration**

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

**2.046 Antitrust Assignment**

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

**2.047 Final Payment**

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one (1) party against the other arising from unsettled claims or failure by a party to comply with the Contract, including claims for Services not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under the Contract must constitute a waiver of all claims by Contractor against the State for payment under the Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

**2.048 Electronic Payment Requirement**

Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).



## **2.050 Taxes**

### **2.051 Employment Taxes**

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

### **2.052 Sales and Use Taxes**

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

## **2.060 Contract Management**

### **2.061 Contractor Personnel Qualifications**

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

### **2.062 Contractor Key Personnel**

(a) The Contractor must provide the CCI with the names of the Key Personnel.

(b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(c) The State reserves 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 must notify the State of the proposed assignment, must introduce the individual to the appropriate State representatives, and must 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 must 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, must be fully qualified for the position.

(d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements and appropriate transition planning must be established. Any Unauthorized Removal may be considered by the State to



be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.

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

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

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

### **2.064 Contractor Personnel Location**

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

### **2.065 Contractor Identification**

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

### **2.066 Cooperation with Third Parties**

Contractor must cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor must provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the 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 must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under the Contract with the requests for access.

### **2.067 Contractor Return of State Equipment/Resources**

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

### **2.068 Contract Management Responsibilities**

The Contractor must assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State considers the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of Subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The Contractor is fully responsible for adherence by the Subcontractor to all provisions of the Contract. Contractor must notify the State of any change in Subcontractors from those listed in the Contract upon the State's request.

### **2.070 Subcontracting by Contractor**

**2.071 Contractor Full Responsibility**

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

**2.072 Subcontractor**

Contractor may subcontract any of the Services to be performed under this Contract without the prior written consent of the State provided that Contractor (i) remains fully responsible for the performance of the subcontractor as if Contractor had itself performed the Services; (ii) will provide in its agreements with subcontractors such written provisions as are sufficient to enable Contractor to comply with the provisions of this Agreement; (iii) remains the sole point of contact for the State; and (iv) will be solely responsible for the payment of all subcontractors Contractor engages. Notwithstanding the foregoing, Contractor may not subcontract any of the Services to be performed under this Contract to a subcontractor that is not licensed to do business in the State or is debarred from receiving or bidding on State contracts.

**2.073 Subcontractor Bound to Contract**

In any subcontracts entered into by Contractor for the performance of the Services, Contractor must require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by the 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 is the responsibility of Contractor, and Contractor must remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor must 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 the Contract will not relieve Contractor of any obligations or performance required under the Contract.

**2.074 Flow Down**

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

**2.075 Competitive Selection**

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

**2.080 State Responsibilities****2.081 Equipment**

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

**2.082 Facilities**

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

**2.090 Security****2.091 Background Checks**



Background checks are done in accordance with the Contractor's policy in effect at the time of hire. Contractor must ensure that all employees who are involved in the performance of Services under this Contract have passed a thorough background check.

### **2.092 Security Breach Notification**

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

### **2.093 PCI Data Security Standard Deleted – N/A**

#### **2.110 Records and Inspections**

##### **2.111 Inspection of Work Performed**

The State's authorized representatives must at all reasonable times and with thirty (30) days prior written request, have the right to enter the unrestricted areas of the Contractor's premises, where the Services are being performed. Upon thirty (30) days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not violate the Contractor's security policies over its facilities and systems and will not reasonably interfere or jeopardize the safety or operation of the systems or facilities or disclose information or data about the other Contractor's clients to the State. Contractor must provide all reasonable facilities and assistance for the State's representatives.

##### **2.112 Examination of Records**

For seven (7) years after the Contractor provides any work under the Contract, but no longer than seven (7) years from the last invoice date, (the "Audit Period"), the State or its designee may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules, including all financial and accounting records. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information about the other Contractor's clients or information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor.

##### **2.113 Retention of Records**

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

##### **2.114 Audit Resolution**

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

##### **2.115 Errors**



(a) If the audit demonstrates any errors in the documents provided to the State, then the State and Contractor must mutually agree upon determination of the error and associated cost. The amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) invoices. If a balance remains after four (4) invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the Contract, whichever is earlier.

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

### **2.120 Representations**

#### **2.121 Representations**

The Contractor represents:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the 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 the 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 the 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 the Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in the Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into the Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two (2) days of learning about it.

(h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Procurement.

#### **2.122 Representation of Merchantability**

Goods provided by Contractor under this agreement must be merchantable. All goods provided under the Contract must be of good quality within the description given by the State, must be fit for their ordinary purpose, must be adequately contained and packaged within the description given by the State, must conform to the agreed upon specifications, and must conform to the affirmations of fact made by the



Contractor or on the container or label.

### **2.123 Representation of Fitness for a Particular Purpose**

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

### **2.124 Representation of Title**

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

### **2.125 Equipment Warranty – Deleted - N/A**

### **2.126 Equipment to be New**

If applicable, all equipment provided under the Contract by Contractor must be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

### **2.127 Prohibited Products**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, is considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items must remain consistent for the term of the Contract, unless DTMB-Procurement has approved a change order pursuant to **Section 2.024**.

### **2.128 Consequences For Breach**

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

**2.129** Contractor warrants that it has all rights, title and interest in the Service and that the Service will be performed in all material respects in a reasonable and workmanlike manner and in compliance with laws and regulations applicable to Contractor's performance thereof.

## **2.130 Insurance**

### **2.131 Liability Insurance**

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

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

The insurance coverage's provided relative to the Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance.

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



The insurers selected by Contractor must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in the Contract must be issued by companies that have been approved to do business in the State. See [www.michigan.gov/deleg](http://www.michigan.gov/deleg).

Where specific limits are shown, they are the minimum acceptable limits.

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

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

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

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

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

3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

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

4. Employers liability insurance with the following minimum limits:
- \$100,000 each accident
  - \$100,000 each employee by disease
  - \$500,000 aggregate disease

5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of \$1,000,000.00.

6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: \$3,000,000.00 each occurrence and \$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 the Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.

### **2.132 Subcontractor Insurance Coverage**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under the 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 with the exception of workers compensation. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section with the exception of workers compensation. Subcontractor must fully comply with the insurance coverage required in this Section. Failure of Subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

### **2.133 Certificates of Insurance and Other Requirements**

Contractor must furnish to DTMB-Procurement, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverage's afforded under the policies **MUST NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED** without endeavoring to provide 30 days prior written notice to the Director of Procurement, DTMB. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy.

The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three (3) years following the expiration or termination for any reason of the Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under the Contract to any indemnified party or other persons. .

### **2.140 Indemnification**

#### **2.141 General Indemnification**

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

#### **2.142 Code Indemnification**

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

#### **2.143 Employee Indemnification**

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



greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

#### **2.144 Patent/Copyright Infringement Indemnification**

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

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

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

#### **2.145 Continuation of Indemnification Obligations**

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

#### **2.146 Indemnification Procedures**

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

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

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under the Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law



may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

## **2.150 Termination/Cancellation**

### **2.151 Notice and Right to Cure**

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

### **2.152 Termination for Cause**

(a) The State may terminate the Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under the Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If the Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the 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 the Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in the Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under the Contract.

(c) If the State chooses to partially terminate the Contract for cause, charges payable under the Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

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

### **2.153 Termination for Convenience**

The State may terminate the Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices



for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate the Contract for its convenience, in whole or in part, by giving Contractor written notice at least 30 days before the date of termination. If the State chooses to terminate the Contract in part, the charges payable under the Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

#### **2.154 Termination for Non-Appropriation**

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

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under the Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

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

#### **2.155 Termination for Criminal Conviction**

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

#### **2.156 Termination for Approvals Rescinded**

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

#### **2.157 Rights and Obligations upon Termination**

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



otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

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

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

### **2.158 Reservation of Rights**

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

### **2.160 Termination by Contractor**

#### **2.161 Termination by Contractor**

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

The Contractor may terminate the Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under the Contract, (ii) breaches its other obligations under the Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.190** before it terminates the Contract.

### **2.170 Transition Responsibilities**

#### **2.171 Contractor Transition Responsibilities**

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed) 30 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

#### **2.172 Contractor Personnel Transition**

The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by the 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 must notify all of Contractor's subcontractors of procedures to be followed during transition.

**2.173 Contractor Information Transition**

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

**2.174 Contractor Software Transition**

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

**2.175 Transition Payments**

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of the 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 the contract. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

**2.176 State Transition Responsibilities**

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

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

**2.180 Stop Work****2.181 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

**2.182 Cancellation or Expiration of Stop Work Order**

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

**2.183 Allowance of Contractor Costs**

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience



under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

### **2.190 Dispute Resolution**

#### **2.191 In General**

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

#### **2.192 Informal Dispute Resolution**

(a) All disputes between the parties must be resolved under the Contract Management procedures in the Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Procurement, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one (1) party to another for non-privileged information reasonably related to the Contract must 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 Procurement, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.

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

#### **2.193 Injunctive Relief**

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

#### **2.194 Continued Performance**

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



## **2.200 Federal and State Contract Requirements**

### **2.201 Nondiscrimination**

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

### **2.202 Unfair Labor Practices**

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

### **2.203 Workplace Safety and Discriminatory Harassment**

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

### **2.204 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 the Contract in privity of contract with the Contractor must not be less than the wage rates and fringe benefits established by the Michigan Department of Licensing and Regulatory Affairs, Wage and Hour Division, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor must 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 the Contract in privity of contract with the Contractor must 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 Licensing and Regulatory Affairs, the office responsible for enforcement of the wage rates and fringe benefits. The Contractor must keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with the Contract. This record must 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 must also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

## **2.210 Governing Law**

### **2.211 Governing Law**

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





### **2.212 Compliance with Laws**

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

### **2.213 Jurisdiction**

Michigan law shall control any disputes arising out of this Contract, unless preempted by federal law. The parties agree that the State of Michigan is not an inconvenient forum for any dispute arising from the Contract.

### **2.220 Limitation of Liability**

#### **2.221 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets or to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor. Except for the indemnification and Confidentiality obligations of Contractor found herein, damages of any kind payable by Contractor shall not exceed the sum paid by the State for the item of Service which causes State's claim.

### **2.230 Disclosure Responsibilities**

#### **2.231 Disclosure of Litigation**

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

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

- (i) the ability of Contractor (or a Subcontractor) to continue to perform the Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
  - (a) Contractor and its Subcontractors must be able to continue to perform the Contract and any Statements of Work according to its terms and conditions, and
  - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

(c) Contractor must make the following notifications in writing:



- (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB-Procurement.
- (2) Contractor must also notify DTMB Procurement within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor must also notify DTMB Procurement within 30 days whenever changes to company affiliations occur.

#### **2.232 Call Center Disclosure - Deleted – N/A**

#### **2.233 Bankruptcy**

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

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

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

#### **2.240 Performance**

#### **2.241 Time of Performance**

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

#### **2.242 Service Level Agreements (SLAs) –Deleted – N/A**

#### **2.243 Liquidated Damages - Deleted – N/A**

#### **2.244 Excusable Failure**

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



reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

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

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

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

**2.250 Approval of Deliverables – Deleted –N/A**

**2.260 Ownership**

**2.261 Rights in Data**

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract, as more fully set forth in Section 2.600, State Data. The Contractor must not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor must not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

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

**2.262 Ownership of Materials**

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



by the State, will be owned by the State. Any software licensed through the Contractor and sold to the State, will be licensed directly to the State.

**2.263 Rights To Service.** The Service and the data are proprietary to Contractor and all rights to the Service and are proprietary to and reserved by Contractor.

### **2.270 State Standards**

#### **2.271 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. 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.

#### **2.272 Systems Changes**

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

### **2.280 Extended Purchasing**

#### **2.281 MIDEAL**

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

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

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

#### **2.282 State Employee Purchases – Deleted – N/A**

### **2.300 Other Provisions**

#### **2.301 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials**

Equipment, materials, or supplies, that will be furnished to the State under the Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties. Notwithstanding the foregoing, this does not prevent Contractor from employing people under the age of 18.

### **2.400 State Obligations**

- a. The State shall comply with the terms set forth in this Agreement, as applicable which includes Exhibits 1, 2, and 3, and also each Schedule A executed by the parties which may contain additional terms.



- b. The State shall pay for the Services as set forth in each applicable Schedule. All prices stated in any Schedule attached to this Agreement are exclusive of taxes; however, Contractor acknowledges that the State is a tax exempt entity. As such, the State agrees to provide its tax exemption certificate as required under the applicable Schedule.
- c. The State certifies that it will order Data from the Service only when the State intends to use the Data (i) in accordance with the Fair Credit Reporting Act ("FCRA") and all state law FCRA counterparts as though the Data is a consumer report, and (ii) for one of the following FCRA permissible purposes; (1) in connection with a credit transaction involving the Consumer on whom the Data is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer, (2) in connection with the underwriting of insurance involving the Consumer, (3) as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with an existing credit obligation, (4) in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status, (5) when the State otherwise has a legitimate business need for the information either in connection with a business transaction that is initiated by the Consumer, or to review an account to determine whether the Consumer continues to meet the terms of the account; or (6) for employment purposes and for no other purpose. The State agrees to only use the Data consistent with the obligations of users of consumer reports as provided for in the Consumer Financial Protection Bureau (the "CFPB")'s Notice Form attached as Exhibit 1. Company certifies that before ordering Data to be used in connection with employment purposes, it will clearly and conspicuously disclose to the subject Consumer, in a written document consisting solely of the disclosure, that the State may obtain Data for employment purposes and will also obtain the Consumer's written authorization to obtain or procure Data relating to that Consumer. The State further certifies that it will not take adverse action against the consumer based in whole or in part upon the Data without first providing to the Consumer to whom the Data relates a copy of the Data and a written description of the Consumer's rights as prescribed by the CFPB, and also will not use any Data in violation of any applicable federal or state equal opportunity law or regulation. The State acknowledges that it has received from Contractor a copy of the consumer rights summary as prescribed by the CFPB as referenced on Exhibit 3. The State certifies that it will comply with applicable provisions under Vermont law. In particular, the State certifies that it will order Data relating to Vermont residents only after the State has received prior Consumer consent in accordance with VFCRA Section 2480e and applicable Vermont Rules. The State further certifies that the attached copy of VFCRA Section 2480e applicable Vermont Rules as referenced in Exhibit 2 was received from Contractor.
- d. The State may use the Data provided through the Service only as described in this Agreement. The State may reproduce or store the Data obtained from the Service solely for its own use in accordance with this Agreement, and will hold all Data obtained from the Service under this Agreement in strict confidence and will not reproduce, reveal, or make it accessible in whole or in part, in any manner whatsoever, to any others unless required by law, or unless Company first obtains contractor's written consent; provided, however, that the State may discuss Consumer Data with the Data subject when the State has taken adverse action against the subject based on the Data. The State will not provide a copy of the Data to the Consumer, except as may be required or permitted by law or approved in writing by Contractor, except in any state where this contractual prohibition would be invalid. The State will refer the Consumer to Contractor whenever the Consumer disputes the Data disclosed by the State. The State will not interpret the failure of Contractor to return Data as a statement regarding that consumer's credit worthiness, because the failure may result from one or more factors unrelated to credit worthiness.
- e. The State will comply with the applicable provisions of the FCRA, the Federal Equal Credit Opportunity Act, as amended (the "ECOA"), all state law counterparts of them, and all applicable regulations promulgated under any of them, including, without limitation, any provisions requiring adverse action notification to the Consumer.
- f. The State acknowledges it shall employ decision-making processes appropriate to the nature of the transaction and in accordance with industry standards and will use the Data as part of its processes.
- g. The State may access, use and store the Data only at or from locations within the territorial boundaries of the United States, Canada, and the United States territories of Puerto Rico, Guam and the Virgin Islands (the "Permitted Territory"). The State may not access, use or store the Data or Contractor Confidential Information at or from, or send the Data or Confidential Information to, any



location outside of the Permitted Territory without the State first obtaining Contractors' written permission.

- h. The State may not allow a third party service provider (hereafter "Service Provider") to access, use, or store the Service or Data on its behalf without first obtaining Contractor's written permission and without the Service Provider first entering into a Client Service Provider Information Use and Nondisclosure Agreement with Contractor.
- i. In order to ensure compliance with this Agreement, applicable law and Contractor policies, Contractor may conduct reviews of the State activities, from time to time, during normal business hours, at all locations containing relevant records, with respect to the State's Data and/or its use of Data. For the avoidance of doubt, audits under this section 2.400 shall be to assess compliance with FCRA obligations and Contractor policies; but will not be performed on the State's financial records. The State shall provide documentation within a reasonable time to Contractor as reasonably requested for purposes of such review. The State (i) shall cooperate fully with any and all investigations by Contractor of allegations of abuse or misuse of the Services, subject to the State's security policies and procedures along with escorted access to the State's premises, records, and personnel for purposes of such investigations, if Contractor deems such access is necessary to complete such investigation(s), (ii) agrees that any failure to cooperate fully and promptly in the conduct of any audit constitutes grounds for immediate suspension of the Service and/or termination of the Agreement, and (iii) shall promptly correct any discrepancy revealed by such investigation(s). The State shall include the name and email address of the appropriate point of contact to whom such request should be made in the space provided below. The State may change its contact information upon written notice:

Audit Contact Name	Audit Contact E-mail Address
Pamela Platte	plattep@michigan.gov

**2.500 Data Security**

This Section 2.500 applies to any means through which the State orders or accesses the Service including, without limitation, system-to-system, personal computer or the Internet. For the purposes of this Section 2,500, the term "Authorized User" means a State employee that the State has authorized to order or access the Service and who is trained on the State's obligations under this Agreement with respect to the ordering and use of the Service, and the Data provided through same, including the State's FCRA and other obligations with respect to the access and use of Data.

- a. The State will, with respect to handling any Data provided through the Service:
  - 1. ensure that only Authorized Users can order or have access to the Service,
  - 2. ensure that Authorized Users do not order Data for personal reasons or provide Data to any third party except as permitted by this Agreement,
  - 3. inform Authorized Users that unauthorized access to Data may subject them to civil and criminal liability under the FCRA punishable by fines and imprisonment,
  - 4. ensure that all devices used by the State to order or access the Service are secure and are accessible only by Authorized Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other commercially reasonable security procedures,
  - 5. take all necessary measures to prevent unauthorized ordering of or access to the Service by any person other than an Authorized User for permissible purposes, including, without limitation, (i) limiting the knowledge of the State security codes, user names, User IDs, and any passwords State may use, to those individuals with a need to know. In addition, the User IDs must be unique to each person, and the sharing of User IDs or passwords is prohibited,
  - 6. change the State's user passwords at least every ninety (90) days, or sooner if an Authorized User is no longer responsible for accessing the Service, or if the State suspects an unauthorized person has learned the password. Additionally, perform at least semi-annual entitlement reviews to verify Authorized User's access privileges,



7. adhere to all security features in the software and hardware the State uses to order or access the Services, including the use of IP restriction,
8. implement secure authentication practices when providing User ID and passwords to Authorized Users, including but not limited to using individually assigned email addresses and not shared email accounts,
9. in no event access the Services via any unsecured wireless hand-held communication device, including but not limited to, web enabled cell phones, interactive wireless pagers, personal digital assistants (PDAs), mobile data terminals and portable data terminals
10. not use non-company owned assets such as personal computer hard drives or portable and/or removable data storage equipment or media (including but not limited to laptops, zip drives, tapes, disks, CDs, and DVDs) to store the Data. In addition, Data must be encrypted when not in use and all printed Data must be stored in a secure, locked container when not in use, and must be completely destroyed when no longer needed by cross-cut shredding machines (or other equally effective destruction method) such that the results are not readable or useable for any purpose. In either case, commercially reasonable practices for the type of Data received from Contractor must be employed,
11. if the State sends, transfers or ships any Data, encrypt the Data using the following minimum standards, which standards may be modified from time to time by Contractor: by providing at least 30 days' notice to the State: Advanced Encryption Standard (AES), minimum 128-bit key or Triple Data Encryption Standard (3DES), minimum 168-bit key, encrypted algorithms,
12. not ship hardware or software between the State's locations or to third parties without deleting all Contractor State number(s), security codes, User IDs, passwords, State user passwords, and any consumer information, or Data,
13. monitor compliance with the obligations of this Section 2.500, and immediately notify Contractor if State suspects or knows of any unauthorized access or attempt to access the Service, including, without limitation, a review of Contractors invoices for the purpose of detecting any unauthorized activity.
14. if, subject to the terms of this Agreement, State uses a Service Provider to establish access to the Service, be responsible for the Service Provider's use of State's user names, security access codes, or passwords, and State will ensure the Service Provider safeguards State's security access code(s), User IDs, and passwords through the use of security requirements that are no less stringent than those applicable to State under this Section 2.500,
15. use commercially reasonable efforts to assure data security when disposing of any Data obtained from Contractor. Such efforts must include the use of those procedures issued by the federal regulatory agency charged with oversight of State's activities (e.g. the Federal Trade Commission, the applicable banking or credit union regulator) applicable to the disposal of consumer report information or records,
16. use commercially reasonable efforts to secure Data when stored on servers, subject to the following requirements: (i) servers storing Data must be separated from the Internet or other public networks by firewalls which are managed and configured to meet industry accepted best practices, (ii) protect Data through multiple layers of network security, including but not limited to, industry-recognized firewalls, routers, and intrusion detection/prevention devices (IDS/IPS), (iii) secure access (both physical and network) to systems storing Data, which must include authentication and passwords that are changed at least every ninety (90) days; and (iv) all servers must be kept current and patched on a timely basis with appropriate security-specific system patches, as they are available,
17. not allow Data to be displayed via the Internet unless utilizing, at a minimum, a three-tier architecture configured in accordance with industry best practices (such as bit locker encryption, a username and password, and a VPN token),
18. use commercially reasonable efforts to establish procedures and logging mechanisms for systems and networks that will allow tracking and analysis in the event there is a compromise, and maintain an audit trail history for at least three (3) months for review,



19. provide immediate notification to Contractor of any change in address or office location and are subject to an escorted and supervised onsite visit of the new location by Contractor or its designated representative, and
  20. in the event State has a security incident involving Contractor Confidential Information, the State will fully cooperate with Contractor in a security assessment process and promptly remediate any finding.
- b. If Contractor reasonably believes that the State has violated this Section 2.500, Contractor may, in addition to any other remedy authorized by this Agreement, with reasonable advance written notice to the State, in accordance with the State's policies over its facilities and systems, and at Contractor's sole expense, conduct, or have a third party conduct on its behalf, an audit of the State's network security systems, facilities, practices and procedures to the extent Contractor reasonably deems necessary, including an on-site inspection, to evaluate the State's compliance with the data security requirements of this Section 2.500. For avoidance of doubt, such audits shall not include access to State's systems and networks.

## **2.600 State Data**

### **2.601 Ownership**

The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Services; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, or an individual's name in combination with any other of the elements here listed; This Section 2.601 survives termination or expiration of this Contract.

### **2.602 Contractor Use of State Data**

Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section 2.602 survives termination or expiration of this Contract.

### **2.603 Loss of Data**

In the event of any act, error or omission, negligence, misconduct, or breach that compromises the security, confidentiality, or integrity of State Data, Contractor agrees to provide notice and take all actions required by law, as well as the actions identified in this Section. Contractor must, as applicable: (a) notify the State as soon as practicable but no later than forty-eight (48) hours of becoming aware of such occurrence; (b) reasonably cooperate with the State in Contractor's investigation of the occurrence, including making available all relevant records and logs that are required to comply with applicable law, subject to Contractor's legal obligations with respect to Confidentiality and Privacy; (c) in the case of PII or at the State's sole election, (i) assist the State with drafting the notification of the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any reasonable costs in notifying the affected individuals; (d) in the case of PII, provide Equifax credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any reasonable costs associated with the occurrence, including but not limited to any reasonable costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and





hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for promptly recreating or restoring lost State Data without charge to the State; and (i) provide to the State a plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative. . This Section 2.605 survives termination or expiration of this Contract.

### **2.610 Confidential Information**

#### **2.611 Acknowledgement**

Each party acknowledges that it may be exposed to or acquire communication or data of the other party that is confidential in nature and is not intended to be disclosed to third parties. This Section 2.611 survives termination or expiration of this Contract.

#### **2.612 Meaning of Confidential Information**

The term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; (c) constitutes employment and income data provided by Contractor to the State; (d) falls within the definition of State Data; or (e) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was or is: (a) already in the possession of the receiving party without an obligation of confidentiality; (b) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (c) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). Notwithstanding the above, Contractor recognizes that the State may be subject to a request under the Michigan Freedom of Information Act (the "Act"). In such event, the State will provide prompt written notice to the Contractor such that Contractor may seek protection of any information which may be exempt from disclosure under the Act. If the protection is not obtained by the date that the State must comply with the request, the State will furnish only that portion of the Confidential Information that it is advised by counsel that it is legally required to furnish, and the State will exercise commercially reasonable efforts to obtain confidential treatment of the Confidential Information disclosed. Any information required to be disclosed under FOIA is not considered Confidential Information for purposes of this Contract.

#### **2.613 Obligation of Confidentiality**

The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where the subcontractor is informed of and bound by confidentiality terms as least as restrictive as those set forth in this Section 2.600.

#### **2.614 Cooperation to Prevent Disclosure of Confidential Information**

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

#### **2.615 Remedies for Breach of Obligation of Confidentiality**



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

### **2.616 Surrender of Confidential Information upon Termination**

Upon State's written request at any time (including after termination or completion of the Services hereunder), Contractor will purge or destroy Data housed in Contractor's production database(s) and provided written certification of such destruction to the State, provided that Contractor may retain archival copies of Data for audit and dispute resolution purposes and to comply with legal retention requirements. In addition, Contractor may retain copies of such archival Data on encrypted back-up media in which such Data is commingled with other employment and income data. Contractor shall remain under its contractual obligation of confidentiality and security to State and such obligations shall survive termination of the Agreement. The State may retain archival copies of data for audit and dispute resolution purposes. Such data so retained shall be subject to the confidentiality and use restrictions set forth in this Contract.

### **2.620 Data Privacy and Information Security**

#### **2.621 Undertaking by Contractor**

Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all Contractor Representatives comply with all of the foregoing.

#### **2.622 Right of Assessment by the State**

State may conduct an onsite security assessment ("Assessment") in order to examine Contractor's performance of this Agreement. An Assessment shall be defined as the State having the right to, a) review policies and procedures; b) review high level network and infrastructure diagrams; c) review the executive summary of third party audit reports; d) participate in a "Question and Answer" session with subject matter experts; e) conduct site tour (site tour will not include access to the raised floor area of the datacenter); f) other items as may be approved by Contractor's Security Team. An Assessment will be conducted (i) during regular business hours, (ii) at State's sole expense, (iii) no more frequently than once per calendar year, (iv) on a mutually agreed upon date but no less than 30 days advance notice, and (v) subject to Contractor's security policies over its facilities and systems. State and its auditors shall not be given access to any Contractor's systems for auditing purposes. The right to conduct an Assessment does not allow State to perform security testing, vulnerability assessment, or penetration testing against Contractor. As an alternative to allowing State, their clients, or their auditors to perform their own scans, Contractor shall hire an independent nationally recognized third party to perform an ethical hack/penetration test annually. State may review the executive summary results either onsite at Contractor's company headquarters or via web conference. Contractor will not be required to provide access to the proprietary data of Contractor or of its other clients. All information learned or exchanged in connection with an Assessment shall be kept confidential. In lieu of an on-site assessment, upon request by the State, Contractor agrees to complete, within forty-five (45) calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

#### **2.623 Audit Findings**

With respect to State Data, the State and Contractor shall mutually and reasonably agree to safeguards on data privacy. If the parties cannot mutually and reasonably agree on safeguards on data privacy, then the State may terminate the Agreement.

#### **2.624 State's Right to Termination for Deficiencies**



The State reserves the right, at its sole election, to immediately terminate this Contract and the Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section 2.624.

**2.700 Force Majeure**

Neither party will be liable to the other for any delay, or interruption in performance as to any obligation hereunder resulting from governmental emergency orders, judicial or governmental action, emergency regulations, sabotage, riots, vandalism, labor strikes or disputes, acts of God, fires, electrical failure, major computer hardware or software failures, equipment delivery delays, acts of third parties, or delays or interruptions in performance beyond its reasonable control.

**2.800 Counterparts/Execution by Facsimile**

For the convenience of the parties, copies of this Agreement hereof may be execute in two or more counterparts and signature pages exchanged by facsimile. The parties intend that counterpart copies signed and exchanged as provided in the preceding sentence shall be fully binding as an original handwritten executed copy hereof and thereof and all of such copies together shall constitute one instrument.

The State acknowledges receipt of Exhibit 1, "Notice to Users of Consumer Reports, Obligations of Users". Furthermore, the State has read "Notice to Users of Consumer Reports, Obligations of Users" which explains the State's obligations under the FCRA as a user of consumer report information (To be initialed by the person signing on behalf of the State).

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date indicate below.

**State of Michigan**

**TALX Corporation,  
provider of Equifax Verification Services**

By  
(signature): \_\_\_\_\_  
Name  
(print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By  
(signature): \_\_\_\_\_  
Name  
(print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**Attachment A, Price Sheet**

**Employment Verification Services**

**DHS Pricing:**

<b>Transaction Type</b>	<b>Fee/Month</b>	<b>Annual Transaction Ceiling</b>	<b>Cost <u>Above</u> Ceiling</b>	<b>Annual Minimum Payment</b>
Employment Summary (SSN Search)	FREE	UNLIMITED	FREE	FREE
The Work Number <sup>®</sup> Income Verification	\$88,541.66 per month	250,000 The Work Number <sup>®</sup> Income Verifications	\$4.25 each	\$1,062,500.00

- The request by the State and the performance by the Contractor of an Employment Verification (and/or Income Verification, if applicable) under this Contract and Attachment A will be referred to as "Transaction(s)". The Annual Minimum payment shall be charged to the State for all Transactions up to and including the Annual Transaction Ceiling (i.e. 250,000 transactions). For Transactions charged against the Annual Transaction Ceiling, the State will be billed monthly as transactions occur at the effective rate of \$4.25 per Transaction. Each Transaction performed above the Annual Transaction Ceiling (i.e. 250,000 transactions) will be charged at \$4.25 per.
- The term of this agreement begins April 1, 2014 and ends March 31, 2019 ("Annual Term").
- SSN searches will be FREE for the duration of the agreement.
- Transactions allotted under the Annual Transaction Ceiling that are not used during the Annual Term will not be available for use in any subsequent Annual Term.

**Treasury, MGA per verification pricing:**

<b>Transaction Type</b>	<b>Per Transaction Rate (Includes Online and Researched)</b>
The Work Number <sup>®</sup> Verifications: Commercial	\$10.00 each

The parties acknowledge that the State's access to and use of the Services during its normal business hours is critical to the efficient operation of State programs. In the event Contractor intends to inactivate any of the State's locations, Contractor shall notify the DTMB Buyer, Pamela Platte, via email at plattep@michigan.gov and the Contract Compliance Inspector - DHS, Lisa Listman, via email at ListmanL@michigan.gov and Contract Compliance Inspector - Treasury, Janet McKeown, via email at McKeownJ@michigan.gov at least five (5) days in advance of the deactivation. In the event there are changes to personnel, the State shall provide written notification to Contractor of the changes.

Should Contractor inactivate the Service in breach of the terms of this Contract, and without providing the notice as described above, and as a result the Services are unavailable for any period of time other than as explicitly identified in this Contract, Contractor shall pay the State \$1,000 (one thousand dollars) per each business day of inaccessibility. The parties agree that such payment constitutes an adjustment for Services actually rendered and is not a penalty, and is a reasonable estimate of the anticipated or actual harm that might arise from unavailability of the Services.

If Contractor inactivates the Service after providing notice as set forth above, but the above named contacts have been changed and the State has not provided timely written notification of the change to Contractor, then Contractor shall not be liable for any payment to the State for inactivation.



## **Attachment B, Security Requirements**

### **Security Requirements**

On award of the Contract, the Contractor must comply with State and federal statutory and regulatory requirements, and rules; National Institute of Standards and Technology (NIST) publication 800-53; ISO 27001 and all requirements herein.

The Contractor must perform annual testing of all security control requirements to determine they are working as intended. Annual certification must be provided in writing to the CCI or designee in the form of a SSAE16 or similar audit report, if applicable.

#### **A. Governing Security Standards and Publications**

The State of Michigan information is a valuable asset that must be protected from unauthorized disclosure, modification, use, or destruction. Prudent steps must be taken to ensure that its integrity, confidentiality, and availability are not compromised.

The Contractor must collect, process, store, and transfer Department of Treasury personal, confidential or sensitive data in accordance with the Contractual agreement, State of Michigan policies and the laws of the State of Michigan and the United States, including, but is not limited to the following:

1. The Michigan Identity Theft Protection Act, MCL 445.61 et seq;
2. The Michigan Social Security Number Privacy Act, MCL 445.82 et seq.
3. Family Educational Rights and Privacy Act

#### **B. Security Risk Assessment**

The Contractor must conduct assessments of risks and identify the damage that could result from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the Department of Treasury. Security controls should be implemented based on the potential risks. The Contractor must ensure that reassessments occur whenever there are significant modifications to the information system and that risk assessment information is updated.

#### **C. System Security Plan**

The Contractor must develop and implement a security plan that provides an overview of the security requirements for the information system. If a security plan does not exist, the Contractor must provide a description of the security controls planned for meeting those requirements. The security plan must be reviewed periodically and revised to address system/organizational changes or problems.

#### **D. Network Security**

The Contractor is responsible for the security of and access to Department of Treasury data, consistent with legislative or administrative restrictions. Unsecured operating practices, which expose other connected networks to malicious security violations, are not acceptable.

#### **E. Data Security**

The Contractor has the responsibility to protect the confidentiality, integrity, and availability of State of Michigan data that is generated, accessed, modified, transmitted, stored, disposed, or used by the system, irrespective of the medium on which the data resides and regardless of format (such as in electronic, paper or other physical form).

The Contractor must:

1. Process the personal data in accordance with the personal data protection laws of the State of Michigan and the United States.
2. Have in place appropriate technical and organizational internal and security controls to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and which provide a level of security appropriate to the risk



represented by the processing and the nature of the data to be protected. Technical and organizational security controls must be implemented that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, presented by the processing.

3. Provide secure and acceptable methods of transmitting personal, confidential or sensitive information over telecommunication devices such as data encryption (128 bit minimum), Secure Socket Layer (SSL), dedicated leased line or Virtual Private Network (VPN).
4. Supply the Department of Treasury, Security Division with Contractor's SSAE 16 or equivalent audit report performed in the last three years.
5. Have in place procedures so that any third party it authorizes to have access to the personal data, including processors, must respect and maintain the confidentiality, integrity, and availability of the data.
6. Process the personal, confidential and sensitive data only for purposes described in the Contract.
7. Identify to the Department of Treasury, a contact point within its organization authorized to respond to enquiries concerning processing of the personal, confidential or sensitive data, and will cooperate in good faith with the Department.
8. Not disclose or transfer the personal, confidential or sensitive data to a third party unless it is approved under this Contract.
9. Not use data transferred by the Department of Treasury as a result of this Contract for marketing purposes.

#### **F. Media Protection**

1. The Contractor must implement measures to provide physical and environmental protection and accountability for tapes, diskettes, printouts, and other media containing Department of Treasury's personal, confidential and sensitive information to prevent the loss of confidentiality, integrity, or availability of information including data or software, when stored outside the system. This can include storage of information before it is input to the system and after it is output.
2. The Contractor must ensure that only authorized users have access to information in printed form or on digital media removed from the information system, physically control and securely store information media, both paper and digital, restrict the pickup, receipt, transfer, and delivery of such media to authorized personnel.

#### **G. Media Destruction and Disposal**

1. The Contractor must sanitize or destroy information system digital media containing personal, confidential or sensitive information before its disposal or release for reuse to prevent unauthorized individuals from gaining access to and using information contained on the media.
2. Personal, confidential or sensitive information must be destroyed by burning, mulching, pulverizing or shredding. If shredded, strips should not be more than 5/16-inch, microfilm should be shredded to affect a 1/35-inch by 3/8-inch strip, and pulping should reduce material to particles of one inch or smaller.
3. Disk or tape media must be destroyed by overwriting all data tracks a minimum of three times or running a magnetic strip over and under entire area of disk at least three times. If the CD, DVD or tape cannot be overwritten it must be destroyed in an obvious manner to prevent use in any disk drive unit and discarded. Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal. Electronic data residing on any computer systems must be purged based on retention periods required by the Department of Treasury. Notwithstanding anything to the contrary, Contractor shall have the right to retain copies of the State's transaction data (not to include State Data) for audit purposes, dispute resolution, and to fulfill legal retention requirements. Contractor may also retain data received from the State (not to include State Data)



which is stored on shared backup media until such media is re-used or destroyed. Contractor shall be required to maintain the security guidelines of this agreement for the period that such data is under control of Contractor.

**H. Access Control**

The Contractor must limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems) and to the types of transactions and functions that authorized users are permitted to exercise. Access must be promptly removed when a staff changes job duties or leaves the employment.

**Authentication Process**

Authentication is the process of verifying the identity of a user. Authentication is performed by having the user enter a user name and password in order to access the system.

To help protect information from unauthorized access or disclosure, users must be identified and authenticated per the table below prior to accessing confidential or sensitive information, initiating transactions, or activating services.

Publicly available information such as the mother’s maiden name, birth date, and address as the sole authenticator is not a secure means of authentication and should not be used.

Automatic user logons are prohibited. Device-to-device logons must be secured (preferably using client certificates or password via tunneled session). For certain implementations, source restrictions (sign-on can occur only from a specific device) provide a compensating control, in addition to the ID and password.

Authentication information (e.g., a password or PIN) must never be disclosed to another user or shared among users.

The authentication process is limited to five unsuccessful attempts and must be reinstated automatically after 30 minutes or by the authorized personnel (preferably the System security Administrator). User accounts should be disabled after no more than 90 days of inactivity.

**Password Requirements**

The purpose of a password is to authenticate a user accessing the system and restrict use of a userID only to the assigned user. To the extent that the functionality is supported within the technology or product, the controls listed must be implemented.

These following controls or content rules apply at any point where a new password value is to be chosen or assigned. These rules must be enforced automatically as part of a new password content checking process:

Password Property	Value
Minimum Length	Minimum of eight characters
Composition	<ul style="list-style-type: none"> <li>• At least 3 of 4 of the following:</li> <li>• Upper case (A through Z) or lower case (a through z) letters or a numeric character (0 through 9) or a special character (!, @, #, \$, %, ^, &amp;, *, (, ), +, =, /, &lt;, &gt;, ?, ., ;, :, \)</li> <li>• Special characters (!, @, #, \$, %, ^, &amp;, *, (, ), +, =, /, &lt;, &gt;, ?, ., ;, :, \)</li> <li>• User ID in password is not allowed by policy</li> </ul>
Expiration Requirement (Maximum Password Age):	60 days
Revocation	Passwords should be disabled for 30 minutes after five failed attempts. (Treasury strongly supports password revocation after five failed attempts if system allows) Passwords should be



	disabled after 90 days of inactivity to reduce the risk of compromise through guessing, password cracking or other attack and penetration methods.
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Exhibit 1

All users of consumer reports must comply with all applicable regulations. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA**

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Consumer Financial Protection Bureau's (CFPB) website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore). At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the CFPB's website.

**Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

**I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS**

**A. Users Must Have a Permissible Purpose**

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are;

- As ordered by a court or a federal grand jury subpoena. *Section 604(a)(1)*
- As instructed by the consumer in writing. *Section 604(a)(2)*
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. *Section 604(a)(3)(A)*
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. *Sections 604(a)(3)(B) and 604(b)*
- For the underwriting of insurance as a result of an application from a consumer. *Section 604(a)(3)(C)*
- When there is a legitimate business need, in connection with a business transaction that is *initiated* by the consumer. *Section 604(a)(3)(F)(i)*
- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. *Section 604(a)(3)(F)(ii)*
- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. *Section 604(a)(3)(D)*
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. *Section 604(a)(3)(E)*
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. *Sections 604(a)(4) and 604(a)(5)*

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. *Section 604(c)*. The particular obligations of users of "prescreened" information are described in Section VII below.

**B. Users Must Provide Certifications**

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

**C. Users Must Notify Consumers When Adverse Actions Are Taken**

The term “adverse action” is defined very broadly by Section 603. “Adverse actions” include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA - such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

### **1. Adverse Actions Based on Information Obtained From a CRA**

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

### **2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies**

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

### **3. Adverse Actions Based on Information Obtained From Affiliates**

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

### ***D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files***

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

### ***E. Users Have Obligations When Notified of an Address Discrepancy***

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed. Federal regulations are available at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

### ***F. Users Have Obligations When Disposing of Records***

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. Federal regulations have been issued that cover disposal.

## II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations prescribed by the CFPB.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores.

These persons must provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

## III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

### A. *Employment Other Than in the Trucking Industry*

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- **Before** taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. *Section 615(b)(2)*

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

### B. *Employment in the Trucking Industry*

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking company by contacting the company.

## IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.
- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was

received from the consumer or the report was first requested, whichever is later in time.

## **V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS**

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

## **VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION**

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the medical provider). If the information is to be used for an insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in federal regulations) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or as permitted by statute, regulation, or order).

## **VII. OBLIGATIONS OF USERS OF “PRESCREENED” LISTS**

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. *Sections 603(l), 604(c), 604(e), and 615(d)*. This practice is known as “prescreening” and typically involves obtaining from a CRA a list of consumers who meet certain preestablished criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, the CFPB has established the format, type size, and manner of the disclosure required by Section 615(d), with which users must comply. The relevant regulation is 12 CFR 1022.54.

## **VIII. OBLIGATIONS OF RESELLERS**

### ***A. Disclosure and Certification Requirements***

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  - (1) the identity of all end-users;
  - (2) certifications from all users of each purpose for which reports will be used;and
  - (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller.Resellers must make reasonable efforts to verify this information before selling the report.

### ***B. Reinvestigations by Resellers***

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not,

the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

### ***C. Fraud Alerts and Resellers***

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

## **IX. LIABILITY FOR VIOLATIONS OF THE FCRA**

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. *Sections 616, 617, and 621*. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. *Section 619*.

**The CFPB's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore), has more information about the FCRA, including publications for businesses and the full text of the FCRA.**

**Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:**

Section 602 15 U.S.C. 1681  
Section 603 15 U.S.C. 1681a  
Section 604 15 U.S.C. 1681b  
Section 605 15 U.S.C. 1681c  
Section 605A 15 U.S.C. 1681cA  
Section 605B 15 U.S.C. 1681cB  
Section 606 15 U.S.C. 1681d  
Section 607 15 U.S.C. 1681e  
Section 608 15 U.S.C. 1681f  
Section 609 15 U.S.C. 1681g  
Section 610 15 U.S.C. 1681h  
Section 611 15 U.S.C. 1681i  
Section 612 15 U.S.C. 1681j  
Section 613 15 U.S.C. 1681k  
Section 614 15 U.S.C. 1681l  
Section 615 15 U.S.C. 1681m  
Section 616 15 U.S.C. 1681n  
Section 617 15 U.S.C. 1681o  
Section 618 15 U.S.C. 1681p  
Section 619 15 U.S.C. 1681q  
Section 620 15 U.S.C. 1681r  
Section 621 15 U.S.C. 1681s  
Section 622 15 U.S.C. 1681s-1  
Section 623 15 U.S.C. 1681s-2  
Section 624 15 U.S.C. 1681t  
Section 625 15 U.S.C. 1681u  
Section 626 15 U.S.C. 1681v  
Section 627 15 U.S.C. 1681w  
Section 628 15 U.S.C. 1681x  
Section 629 15 U.S.C. 1681y

**UNIVERSAL MEMBERSHIP AGREEMENT**  
**for**  
**The Work Number® Verifier Services**

**Exhibit 2**

**VERMONT FAIR CREDIT REPORTING CONTRACT CERTIFICATION**

The undersigned, \_\_\_\_\_ (“Company”), acknowledges that it subscribes to receive various information services from TALX Corporation, provider of Equifax Verification Services (“EVS”), in accordance with the Vermont Fair Credit Reporting Statute, 9 V.S.A. § 2480e (1999), as amended (the “VFCRA”), and the federal Fair Credit Reporting Act, 15, U.S.C. 1681 et. seq., as amended (the “FCRA”), and its other state law counterparts. In connection with Company's continued use of EVS services in relation to Vermont consumers, Company hereby certifies as follows:

Vermont Certification. Company certifies that it will comply with applicable provisions under Vermont law. In particular, Company certifies that it will order Data relating to Vermont residents, that are credit reports as defined by the VFCRA, only after Company has received prior consumer consent in accordance with VFCRA § 2480e and applicable Vermont Rules. Company further certifies that the attached copy of VFCRA § 2480e applicable Vermont Rules were received from EVS.

**Company:** \_\_\_\_\_

Signed By: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Account Number: \_\_\_\_\_

Date: \_\_\_\_\_

*Please also include the following information:*

Compliance Officer or Person Responsible for Credit Reporting Compliance

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## Vermont Fair Credit Reporting Statute, 9 V.S.A. § 2480e (1999)

### § 2480e. Consumer consent

(a) A person shall not obtain the credit report of a consumer unless:

(1) the report is obtained in response to the order of a court having jurisdiction to issue such an order; or

(2) the person has secured the consent of the consumer, and the report is used for the purpose consented to by the consumer.

(b) Credit reporting agencies shall adopt reasonable procedures to assure maximum possible compliance with subsection (a) of this section.

(c) Nothing in this section shall be construed to affect:

(1) the ability of a person who has secured the consent of the consumer pursuant to subdivision (a)(2) of this section to include in his or her request to the consumer permission to also obtain credit reports, in connection with the same transaction or extension of credit, for the purpose of reviewing the account, increasing the credit line on the account, for the purpose of taking collection action on the account, or for other legitimate purposes associated with the account; and

(2) *the use of credit information for the purpose of prescreening, as defined and permitted from time to time by the Federal Trade Commission.*

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**VERMONT RULES \*\*\* CURRENT THROUGH JUNE 1999 \*\*\***  
**AGENCY 06. OFFICE OF THE ATTORNEY GENERAL**  
**SUB-AGENCY 031. CONSUMER PROTECTION DIVISION**  
**CHAPTER 012. Consumer Fraud--Fair Credit Reporting**  
**RULE CF 112 FAIR CREDIT REPORTING**  
**CVR 06-031-012, CF 112.03 (1999)**  
**CF 112.03 CONSUMER CONSENT**

(a) A person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing if the consumer has made a written application or written request for credit, insurance, employment, housing or governmental benefit. If the consumer has applied for or requested credit, insurance, employment, housing or governmental benefit in a manner other than in writing, then the person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing or in the same manner in which the consumer made the application or request. The terms of this rule apply whether the consumer or the person required to obtain consumer consent initiates the transaction.

(b) Consumer consent required pursuant to 9 V.S.A. §§ 2480e and 2480g shall be deemed to have been obtained in writing if, after a clear and adequate written disclosure of the circumstances under which a credit report or credit reports may be obtained and the purposes for which the credit report or credit reports may be obtained, the consumer indicates his or her consent by providing his or her signature.

(c) The fact that a clear and adequate written consent form is signed by the consumer after the consumer's credit report has been obtained pursuant to some other form of consent shall not affect the validity of the earlier consent.

## The Work Number® Verifier Services

### Exhibit 3

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment - or to take another adverse action against you - must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need - usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-888-5-OPT OUT (1-888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).



**States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:**

<b>TYPE OF BUSINESS:</b>	<b>CONTACT:</b>
<p><b>1.a.</b> Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates.</p> <p><b>b.</b> Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:</p>	<p><b>a.</b> Consumer Financial Protection Bureau 1700 G Street NW Washington, DC 20552</p> <p><b>b.</b> Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 (877) 382-4357</p>
<p><b>2.</b> To the extent not included in item 1 above:</p> <p><b>a.</b> National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p><b>b.</b> State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act</p> <p><b>c.</b> Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p><b>d.</b> Federal Credit Unions</p>	<p><b>a.</b> Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p><b>b.</b> Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p><b>c.</b> FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p><b>d.</b> National Credit Union Administration Office of Consumer Protection (OCP) Division of Consumer Compliance and Outreach (DCCO) 1775 Duke Street Alexandria, VA 22314</p>
<p><b>3.</b> Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement &amp; Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, SE Washington, DC 20590</p>
<p><b>4.</b> Creditors Subject to Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, SW Washington, DC 20423</p>
<p><b>5.</b> Creditors Subject to Packers and Stockyards Act, 1921</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p><b>6.</b> Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, SW, 8th Floor Washington, DC 20416</p>
<p><b>7.</b> Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F Street, NE Washington, DC 20549</p>
<p><b>8.</b> Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090</p>
<p><b>9.</b> Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>FTC Regional Office for region in which the creditor operates <i>or</i> Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 (877) 382-4357</p>