



STATE OF MICHIGAN PROCUREMENT

Department of Insurance and Financial Services

530 W Allegan St., Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Contract Number **200000000053**

CONTRACTOR	INS Consultants, Inc.
	419 S. 2 nd Street New Market, Suite 206
	Philadelphia, PA
	Annette Knief
	610-213-0781
	aknief@theinscompanies.com
	CV0058692

STATE	Program Manager	David Piner	DIFS
		517-284-8759	
		pinerd@michigan.gov	
	Contract Administrator	Drew Simon	DIFS
		517-930-7725	
		SimonD13@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Captive Insurance Company Actuarial Examinations				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11-01-2019	10-31-2022	2, two-year options	10-31-2024	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 years	<input type="checkbox"/>		10-31-2026
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$60,000.00		\$60,000.00	\$120,000.00	
DESCRIPTION: Effective 11-21-2023, this Contract is exercising the last two-year option and is increased by \$60,000. The revised contract expiration date is 10-31-2026. Pricing has been updated for the remainder of the contract per the attached Schedule B.				
In addition, the Contract Administrator for the Contractor has been updated to the following:				
Annette Knief 913-568-7725 aknief@theinscompanies.com				

The Contract Administrator for the State has been updated to the following:

Drew Simon
517-930-7725
SimonD13@michigan.gov

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

CHANGE NOTICE NO. 2 TO CONTRACT NO. 200000000053

FOR THE CONTRACTOR:

INS Consultant, Inc.
Company Name

Authorized Agent Signature

Annette Knief, President and Managing Partner
Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Megan Ramos, CFO and Budget Director
Name & Title

MI Department of Insurance and Financial Services
Agency

Date

STATE OF MICHIGAN

Request For Proposal No. 190000002412
CAPTIVE INSURANCE COMPANY ACTUARIAL EXAMINATIONS

SCHEDULE B PRICING

1. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: 2 % discount off invoice if paid within 15 days after receipt of invoice.

2. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.
3. The price proposal will be submitted in accordance with the second tier, competitive selection process as explained in Schedule A.

Staff/Role	Hourly Rate
Chief Life/Health Actuary	\$225.00
Lead Life/Health Actuary	\$225.00
Staff Life/Health Actuary	\$225.00
Chief Property/Casualty Actuary	\$275.00
Lead Property/Casualty Actuary	\$270.00
Staff Property/Casualty Actuary	\$270.00



STATE OF MICHIGAN PROCUREMENT

Department of Insurance and Financial Services

530 W Allegan St., Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 200000000053

to

Contract Number 1

CONTRACTOR	INS Consultants, Inc.
	419 S. 2 nd Street
	New Market, Suite 206
	Philadelphia, PA
	Alan E. Shaw
	215-625-9877
	AShaw@insconsultants.com
	CV0058692

STATE	Program Manager	David Piner	DIFS
		517-284-8759	
		pinerd@michigan.gov	
	Contract Administrator	Matt Torok	DIFS
		517-284-8680	
		torokm@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Captive Insurance Company Actuarial Examinations				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11-01-2019	10-31-2022	2, two-year options	10-31-2022	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 years	<input type="checkbox"/>		10-31-2024
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$30,000		\$30,000	\$60,000	
DESCRIPTION: Effective 02-1-2022, this Contract is exercising a two-year option and is increased by \$30,000. The revised contract expiration date is 10-31-2024. In addition, the current staffing for this contract are as follows:				
Property /Casualty: David Macesic, ACAS, MAAA; Vice President				
Project Lead P/C Actuary: Michael W. Morro, ACAS, MAAA				
Property/Casualty Actuaries:				

John Pedrick, FCAS, MAAA
Allan R. Becker, FCAS, MAAA
James McCreesh, FCAS, MAAA
Pete Vuong, FCAS, MAAA
Joseph Jenkins, ACAS, MAAA

Life/Health Actuaries:

Frank G. Edwards, Jr., ASA, MAAA; Vice President

Project Lead L/H Actuary
Diana Goodman, FSA, MAAA

Life/Health Actuaries:
Margaret R. Hermann, FSA, MAAA
Jennifer Thelen, FSA, MAAA
Arthur Lucker, FSA, MAAA

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

CHANGE NOTICE NO. 1 TO CONTRACT NO. 200000000053

FOR THE CONTRACTOR:

INS Consultant, INC.
Company Name

Authorized Agent Signature

Alan E. Shaw, ASA, MAA; President
Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Penny Wright, CFO and Budget Director
Name & Title

MI Department of Insurance and Financial Services
Agency

Date



STATE OF MICHIGAN PROCUREMENT
Department of Insurance and Financial Services (DIFS)
530 W Allegan St, Lansing, MI 48929

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 200000000053
between
THE STATE OF MICHIGAN
and

CONTRACTOR	INS Consultants, Inc.
	419 S. 2 nd Street New Market, Suite 206
	Philadelphia, PA 19147
	Alan E. Shaw
	(215) 625-9877
	AShaw@insconsultants.org
	CV0058692

STATE	Program Manager	David Piner	DIFS
		517-284-8759	
		pinerd@michigan.gov	
	Contract Administrator	Matt Torok	DIFS
		517-284-8680	
		torokm@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Captive Insurance Company Actuarial Examinations			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11-01-2019	10-31-2022	2, two-year options	10-31-2022
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
This Contract Agreement is awarded on the basis of our inquiry Request For Proposal No. 190000002412, Captive Insurance Company Actuarial Examinations. Orders for the delivery will be issued directly by the Department of Insurance and Financial Services through the issuance of a Purchase Order.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$30,000

FOR THE CONTRACTOR:

INS Consultants, Inc.

Company Name



Authorized Agent Signature

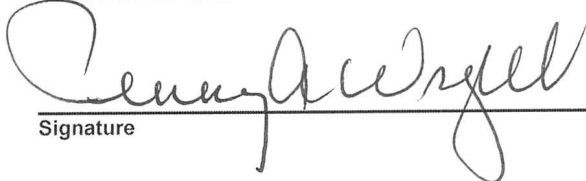
Alan E. Shaw, ASA, MAAA; President

Authorized Agent (Print or Type)

October 10, 2019

Date

FOR THE STATE:



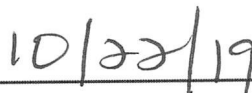
Signature

Penny Wright, CFO & Budget Director

Name & Title

DIFS

Agency



Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and INS Consultants, Inc. (“**Contractor**”), a Delaware corporation. This Contract is effective on November 1, 2019 (“**Effective Date**”), and unless terminated, expires on October 31, 2022.

This Contract may be renewed for up to 2 additional two-year optional renewal periods. Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Matt Torok 530 W. Allegan Street Lansing MI 48933 torokm@michigan.gov 517-284-8680	Alan E. Shaw, ASA, MAAA President 419 S. 2 nd Street New Market, Suite 206 Philadelphia, PA 19147 AShaw@insconsultants.org (215) 625-9877

- 3. Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Matt Torok 530 W. Allegan Street Lansing MI 48933 torokm@michigan.gov 517-284-8680	Alan E. Shaw, ASA, MAAA President 419 S. 2 nd Street New Market, Suite 206 Philadelphia, PA 19147 AShaw@insconsultants.org (215) 625-9877

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
David Piner 530 W. Allegan Street Lansing MI 48933 pinerd@michigan.gov 517-284-8759	Alan E. Shaw, ASA, MAAA President 419 S. 2 nd Street New Market, Suite 206 Philadelphia, PA 19147 AShaw@insconsultants.org (215) 625-9877

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
Umbrella or Excess Liability Insurance	
<u>Minimum Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy follow form.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	

<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
Professional Liability (Errors and Omissions) Insurance	
<u>Minimum Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver. This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
Cashiering
P.O. Box 30681
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to MiDeal@michigan.gov.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

8. **Reserved**
9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the

State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or

rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. **Reserved.**

18. **Reserved.**

19. **Reserved**

20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.

22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

- 24. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

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. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept

its return by the State with appropriate credits to the State against 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.

28. **Limitation of Liability and Disclaimer of Damages.** IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
29. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
30. **Reserved.**
31. **State Data**
- a. **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 Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, 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, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
 - b. **Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. 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 Contract Activities, 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 survives the termination of this Contract.
 - c. **Extraction of State Data.** Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
 - d. **Backup and Recovery of State Data.** Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
 - e. **Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with

approval and assistance from the State, notify the affected individuals who comprise the PII or PHI 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 costs in notifying the affected individuals; (d) in the case of PII, provide third-party 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 twenty-four (24) 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 costs associated with the occurrence, including but not limited to any 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 recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed 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, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 31** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

- f. State's Governance, Risk and Compliance (GRC) platform. Contractor is required to assist the State with its security accreditation process through the development, completion and ongoing updating of a system security plan using the State's automated GRC platform, and implement any required safeguards or remediate any security vulnerabilities as identified by the results of the security accreditation process.

32. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, 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; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. 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: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's

Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. 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 and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. 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.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

33. Data Privacy and Information Security.

- a. 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 employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a 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.

34. Reserved.

35. Reserved.

- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension (“**Audit Period**”). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.

40. Reserved.

41. Reserved

- 42. 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.

- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

44. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
45. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
46. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
47. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
48. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Schedule A Statement of Work

Schedule B Pricing

Note: Additional Schedules and/or Exhibits may be included once the contract is finalized.

51. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE

DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

- 52. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 53. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 54. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 55. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

STATE OF MICHIGAN

Request For Proposal No. 190000002412
CAPTIVE INSURANCE COMPANY ACTUARIAL EXAMINATIONS

SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term "Contractor" in this document refers to a bidder responding to this RFP.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

BACKGROUND

The purpose of this request is to solicit responses in order to establish a pre-qualification pool of Contractors to provide captive insurance company actuarial examination services. The Department of Insurance and Financial Services (DIFS), Office of Insurance Evaluation (OIE), Captive Unit has new and on-going captive insurance company examinations that require resources exceeding the available staff resources. It is therefore necessary to augment staff with services from private sector vendors. The pre-qualification list will be effective October 1, 2019 through September 30, 2022 with two, one-year Contract options available at the discretion of the State.

The Captive Unit is responsible for regulating the financial solvency and compliance with Michigan insurance laws, regulations, administrative rules and bulletins of Michigan licensed captive insurance companies.

A. The Captive Unit Program Objective:

A primary program objective for the Captive Unit is to ensure that Michigan licensed captive insurance companies doing business in the State of Michigan remains solvent and able to fulfill their contractual obligations to claimants and creditors.

The Captive Unit's regulatory responsibilities include ensuring captive insurance company solvency and affiliated entity protection and ensuring compliance with Michigan law. To accomplish this, the Captive Unit must review captive insurance companies' financial statements in a timely manner and examine each company at least every five years.

An analysis and evaluation by a Fellow of the Society of Actuaries/Fellow of the Casualty Actuarial Society of the adequacy of reserves of regulated entities are critical to the Director's ability to adequately examine the entities and ensure compliance with standards and regulations.

This RFP will establish a pool of pre-qualified Contractor(s) who can provide captive insurance company actuarial examination services quickly and appropriately to allow the Captive Unit to meet the regulatory responsibility noted above.

Pre-qualified Contractor(s) must submit a quotation per project that the Captive Unit issues through a Request for Quote (RFQ). The scope of work will cover actuarial examinations for captive insurance companies licensed in the State of Michigan.

The examination program was developed by the Captive Unit to address the unique issues surrounding the examination of captive insurance companies. These captive insurance companies are organized and licensed under the captive laws of the State of Michigan. Due to the nature of these companies, they are regulated only by the Department and the examinations of these companies are not currently subject to the accreditation standards of the National Association of Insurance Commissioners. The examination program has been designed to address these unique aspects of captive insurance companies as well as the Department's captive regulatory structure which requires the Department's approval of the Captives'

initial as well as ongoing plan of operations. The procedures in the captive insurance company examination program emphasize the compliance with approved business plan, the adequacy of loss reserves, and they require a risk focused examination approach.

Note that examination Contractors may not be required to travel to the captive insurance company. In cases where examination contractors are not required to travel, exam documents will be provided by the Captive Unit, as the Captive Unit's Examiner-in-Charge (EIC) will be the contact between the captive insurance company and the Contractor.

B. Level / Volume of Service:

The Captive Unit is responsible for monitoring and analyzing the financial statements of Michigan licensed captive insurance companies. Over the next five years, it is anticipated the average will be two to six exams per year. The Captive Unit has 24 captives and the program is growing at a steady pace.

REQUIREMENTS

The purpose of this request is to pre-qualify captive insurance company actuarial examination service Contractors for actuarial examination services. As a result of this request, the Captive Unit will have access to a pool of pre-qualified actuaries available to provide high quality captive insurance actuarial services. The Contractors will be available to the Captive Unit as part of a team working under the Captive Unit's EIC.

The goal of the first phase of this solicitation process is to establish a pool of Contractors who have been pre-qualified to perform captive insurance company actuarial examination duties. To be included in the pool, pre-qualified Contractors will be required to sign Primary Contracts with the Captive Unit. After the signing of the Primary Contracts and the creation of the qualified vendor pool, the Captive Unit will use a streamlined, second tier, competitive bid process for awarding actual captive insurance company actuarial examinations.

The second-tier work request process will be initiated by the Captive Unit as specific captive insurance company actuarial examination needs arise. After formalizing a comprehensive statement of work (SOW) and RFQ, the Captive Unit will facilitate the second-tier selection process for each contracting effort. The RFQ will identify the SOW, period of performance, deliverables, specific response information required, and any special terms and conditions. The Captive Unit will send out the solicitation to all pre-qualified Contractors. These Contractors must respond directly to the Captive Unit within the timeframe specified in the RFQ. The Captive Unit will evaluate the responses and determine the Contractor that will provide the best overall value for the RFQ.

WORK AND DELIVERABLES

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

A. Project Assignment:

The Captive Unit will prepare a written RFQ that details the captive insurance company involved and the work to be performed by the Contractor.

Each RFQ statement will be submitted to all pre-qualified Contractors. Each RFQ from the Captive Unit will include the following information:

1. Cover Sheet:
 - a. Contractor Proposal due date.
 - b. Name of captive insurance company to be analyzed/examined.
 - c. Period of captive insurance company operation time to be reviewed by this examination.
 - d. Expected end work product, i.e., agreed-upon procedures.
 - e. Criteria for determining acceptance of deliverables and final acceptance criteria.
 - f. Timeframe for work to be finished

2. Excerpts from Captive Insurance Company's Annual Report.

B. Contractor Response:

The Contractor will have approximately three weeks from the date the RFQ is received to submit a Proposal in response to an RFQ. The Contractor must respond to the RFQ with a quotation and a work plan.

1. Responses to RFQs must include the following:

- a. Assignment Scope: Statement of the project assignment.
- b. Dates by which examination of the captive insurance company will begin and be completed.
- c. Description of the services, including:
 - 1) Contractor's approach to completing the financial examination of the captive insurance company identified in the RFQ (to include a history of the captive insurance company, particular industry considerations, any significant issues raised by the Captive Unit, etc.).
 - 2) Technical work plan.
 - 3) End product of the assignment (e.g. all examination work papers, including a finalized examination report, following captive program examination guidelines, etc.).
 - 4) Individual staff assigned to project.
- d. Assigned staff information:
 - 1) Name and title.
 - 2) Background and credentials.
 - 3) Total amount of experience relevant to completing captive insurance company actuarial examinations.
 - 4) Specific experience relevant to the type of captive insurance company being examined. (Not necessary to include individual resumes, if included in Contractor's proposal under which this Contract was awarded.).
 - 5) All the individual staff assigned to the actuarial examination, the areas each individual will be assigned to the examination and the estimated number of hours each individual will participate in the examination. (Note that this description **must** reflect that the actuarial examination's senior level actuary has previous experience in auditing captive insurance companies).
- e. Detail of costs:
 - 1) Staff assigned to project.
 - 2) Estimated hours assigned for each of the project-staff members.
 - 3) The hourly rate per staff person. The hourly rate must also include travel costs.*
 - 4) Total projected cost for examination.

NOTE: It is imperative that Contractor staff that perform these examinations not be affiliated or associated (either financially or contractually) with an entity being examined and that there has been financial or contractual relationship, either written or oral, with an entity being examined and this Contractor, during the life of this Contract. Failure by the firm to comply with this provision will result in the cancellation of this Contract.

*Hourly rates must be inclusive of travel costs that may be incurred by the Contractor during the normal course of an individual project. Should the Contractor be required to defend their findings at a hearing, DIFS will reimburse the Contractor for any specific travel costs incurred while defending the findings. This reimbursement is in addition to the total cost bid and accepted by the DIFS in response to an RFQ. Travel costs incurred to attend hearings must be approved by DIFS prior to incurring and only be incurred to defend the Contractor's findings, pursuant to the State of Michigan Travel policy, as listed on the travel Web site. Travel costs cannot exceed

those established by the Department of Civil Service for employee reimbursement; see:
http://www.michigan.gov/dmb/0,1607,7-150-9141_13132---,00.html

2. ACTUARIAL EXAMINATIONS ONLY - Responses to an RFQ must also include the following:

- a. Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:
 - 1) A description of tests which the Contractor will use to determine compliance with Michigan laws, regulations and bulletins and an elapsed time and worker-hours budget.
 - 2) Review and opine on actuarial items in connection with financial examinations of Michigan captive insurance companies or other liabilities or assets specifically determined by the Captive Unit which need to be reviewed by an actuary.
 - 3) The actuarial items to be reviewed may include, but are not limited to, policy reserves, policyholder dividend scales and philosophy, tax liability, product features, and surplus requirements, cash flow tests, asset adequacy testing, and loss and loss adjustment expense reserves.
 - 4) The actuary is responsible for reconciling all the data provided by the company back to the annual financial report.
 - 5) The liabilities and assets to be reviewed and certified by the Contractor will be determined at the beginning of each actuarial examination. The Contractor must use, if available, the captive insurance company's actuarial opinion, report and work papers to the greatest extent possible without compromising the Contractor's responsibility to perform the necessary tests to render his/her opinion on the agreed upon areas as defined in the work statement.
 - 6) The Contractor must work closely with the EIC to ensure the appropriate underlying master file and other data used by the Contractor in rendering their opinion is tested for completeness and accuracy by the Captive Unit staff.
 - 7) The Contractor must give the EIC progress reports throughout the examination. These reports may be verbal.
 - 8) The Contractor must immediately notify the EIC of any exceptions and important issues.
 - 9) It is also imperative that the Contractor not be associated with (either financially or contractually) the entity regulated by DIFS to which the Contractor is providing services and that such a relationship not be entered into for two years prior to, during the life of and for two years after this Contract without the written consent of DIFS. Failure by the Contractor to comply with this provision may result in the cancellation of this (or future) Contract.
 - 10) The reports and opinions for life and health entities must be signed by a Fellow of the Society of Actuaries (FSA); and reports and opinions for property and casualty entities must be signed by a Fellow of the Casualty Actuarial Society (FCAS). The fellow must play a significant role in the analysis and oversight of the project. In circumstances where the Contractor does not have the staff or expertise, the Contractor may subcontract the work with State prior approval.
 - 11) The Contractor must be available for meetings with the regulated entity and the Captive Unit. Also, from time to time, the Contractor may be called upon to appear at a place designated by the Captive Unit, to discuss the issues of an emergency nature on short notice. Further, the Contractor is required to be flexible in changing their work efforts to accommodate the concerns of the Captive Unit. The Contractor must be prepared and available to defend the Contractor's findings in a hearing. The Contractor must be willing

to testify as an expert witness and perform other tasks related to the area of expertise as needed.

- 12) The Contractor may be called upon to help the Captive Unit analyze complex reinsurance agreements and transactions or any other special assignment, where actuarial assistance may be deemed necessary by the Captive Unit.
 - 13) From time to time, there may be special projects that may be performed in areas which may be considered beyond the scope of a routine actuarial examination, which the Contractor may be asked to provide to the Captive Unit. The scope of the project or area will be defined by the Captive Unit and agreed upon with the Contractor before the work begins.
 - 14) The actuary should be able to perform most of the analysis from their work location. All visits by the actuary to the captive insurance company being examined must be coordinated with the approval by the EIC.
 - 15) All of the Contractor's work papers are the property of DIFS and must be sent to DIFS at the conclusion of the examination.
 - 16) Contractors may not be awarded an exam if the Contractor performed the analysis and review for DIFS during the last examination.
3. The Contractor will be held to the price quoted. No additional funds will be approved and paid to the Contractor for delays in the examination because of the company delays providing needed examination information unless the Contractor can provide sufficient documentation to demonstrate the delays. The delays must be in all areas of information or a significant portion of the information such that the Contractor's staff is not able to remain productive. Also, the Contractor must be able to demonstrate that its staff could not be temporarily reassigned during any such lulls in receiving documentation. The Captive Unit does not anticipate any delays and would work with the Contractor and company to ensure delays will not occur.
- a. The Captive Unit will pay for all Actuarial Examination services by the Contractor that are provided according to the terms of this Contract. No charges shall be submitted to the regulated captive insurance company being examined, unless otherwise directed by the Captive Unit.

4. RFQ Evaluation

1. Each RFQ response must include all items identified in Section 1.022-B of this Contract and will be evaluated utilizing the following criteria:
 - Description of Actuarial Examination Services:
 - ☐ Actuarial Examination Plan
 - ☐ Service Description
 - Resource Allocation:
 - ☐ Appropriate supervisory-staff time allocated
 - ☐ Actuarial examination's senior level actuary
 - ☐ Senior actuary has previous experience in auditing captive insurance companies
 - _____ Total project staff hours for completion of examination
 - Time:
 - ☐ Complete within 180 days or less from date assigned
 - Estimated Date of Completion: _____
 - Price:
 - _____ Project Cost

_____ Expenses
_____ Total quote for examination

C. Service Requirements

1. Actuarial Examinations

If awarded the actuarial examination (project) assignment, Contractor must carry out this project under the direction and control of the Captive Unit, and must:

- a. Perform specific examination tests identified in the initial examination plan and other examination tests as deemed necessary throughout the course of the examination to determine solvency and compliance with Michigan captive insurance laws, regulations, administrative rules and bulletins. The Contractor must review the tests performed and the results found with a Captive Unit EIC on request.
- b. Document all work performed and examination findings in actuarial examination work papers, ensuring all work papers generated during the examination meet its firm's work paper quality standards, and Captive Unit work paper standards (all work papers will be reviewed and must be approved by the EIC. Note that TeamMate file repository software use is preferred. These work papers shall become the property of the Captive Unit after the examination and must be provided in electronic format.
- c. Be responsible for bringing their own supplies and equipment.
- d. Not contact the company prior to the actuarial examination without written authorization from the Captive Unit, even though it is the Captive Unit's practice to give captive insurance companies at least 30 days' notice prior to beginning an actuarial examination.
- e. Assign staff who are qualified and familiar with Michigan captive insurance laws, regulations, administrative rules and bulletins.
- f. Identify any items of noncompliance with State statutes and regulations, whether financial or non-financial, which become apparent during the actuarial examination. Also, the Contractor must identify any findings, again whether financial or non-financial, where the company could improve its operations, controls or reporting. The Captive Unit will make the final determination about which items should then be discussed with the captive insurance company and then whether that item should be included in the final report or management letter.
- g. Work with, and under the direction of the EIC, to prepare a draft copy of the examination report and management letter on the captive insurance company. The management letter must include all findings that are not material to the captive insurance company's financial solvency or code violations, but are areas where the company could improve its operations, controls or reporting.
- h. Submit actuarial examination findings and work papers to the Captive Unit within 10 calendar days following the completion of the examination of the company unless otherwise agreed to by the Captive Unit. .
- i. Make changes to the report as agreed to, following discussions with the Captive Unit.
- j. Hold a meeting (may be a conference call) with the Captive Unit and the captive insurance company being examined to discuss any findings or comments arising from the actuarial examination. Following the meeting, adjust the draft report and opinion based on the meeting and subsequent information received by the Captive unit and submit the final draft report and opinion to the Captive Unit within 10 calendar days of approval of the draft by the EIC.

- k. Remain available to answer any inquiries or clarify test-work and findings found during the examination until the next examination of the captive insurance company is completed. This is normally a five year period. Also, the Contractor must assist the Captive Unit during any administrative or court proceedings involving the examination reports, the examinations or any matter related to the Contractor's work under this Contract.
- l. Upon notice by the Captive Unit, appear or be available to appear for testimony in any administrative or court proceedings involving the examination reports, the examinations or any matter related to the Contractor's work under this Contract. The Captive Unit will pay for this type of service outside the cost proposed under the Contract. However, the Captive Unit will only pay the individual hourly rates agreed to within this Contract. These services will only be provided at the request of the Contract Compliance Inspector and a total agreed price will be determined before any services are rendered. No additional costs will be provided above the amount agreed to by the Contract Compliance Inspector (CCI).
- m. Remain available to participate in Chapter 81 proceedings. During the course of an examination, it may become necessary for the Captive Unit to take a Chapter 81 action, such as seizure of the assets or rehabilitation. If these services are above the normal course of the examination, a separate arrangement will be negotiated with the Contractor. The Captive Unit will make the final determination whether the services are above the normal course of the examination. Once a Chapter 81 action is taken, the Director of the Receivership Division, DIFS, may take responsibility for the examination.
- n. Remain available to answer any questions or provide any additional documentation requested by the auditor general's office if the Captive Unit is audited during this Contract period by the auditor general's office. DIFS is also audited by the State of Michigan Legislature's Office of the Auditor General. The Auditor General may review the Contractor's work papers. DIFS will pay for this type service outside the cost proposed under the Contract. The rate charged by the Contractor for these services must be the hourly rates agreed to in the Contract. These services will only be provided at the request of the CCI and a total agreed upon price will be determined before any services are rendered.

NOTE: No additional costs will be provided above the amount agreed to by the CCI.

- o. Within 10 working days from the beginning of the examination, unless otherwise agreed upon, the Contractor must submit a work plan to the EIC for final approval. This final work plan or agreed upon procedures will be finalized after the examination planning has been completed jointly by the Contractor and DIFS. This final implementation plan must be in agreement with the Contractor's accepted and approved quotation and must include the following:
 - 1) The Contractor's project organizational structure.
 - 2) 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.
 - 3) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
 - 4) The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.
- p. The Contractor must agree to comply with Section 222(4) of the Michigan Insurance Code regarding the confidentiality of all information and knowledge obtained by the Contractor

during an examination of an entity under this Contract. Section 222(4) states, in part, “all work papers, correspondence, memoranda, reports, records and other written or oral information related to an examination report or an investigation shall be withheld from public inspection, shall be confidential, shall not be subject to subpoena, and shall not be divulged to any person, except as provided for in Section 222(4)”. If the Contractor receives a subpoena for any information related to an examination under a contract, the Contractor must contact DIFS immediately. The Contractor should also be aware of Section 226 of the Michigan Insurance Code that states, in part, a person acting under this act who discloses any fact or information that is confidential under this act is guilty of a misdemeanor, punishable by a fine of not more than \$1,000, or imprisonment of not more than one year, or both.

1. General Requirements

1.1. Transition—Deleted—Reserved

1.2. Training—Deleted—Reserved

2. Services Levels

2.1. Time Frames—Reserved

2.2. Delivery—Reserved

3. Acceptance

3.1. Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the Contract Activities:

Deliverables must be presented in writing to the agency project manager. Deliverables must meet the agreed upon criteria between the agency project manager and the Contractor in Section 1.0, Exhibit A.

3.2. Final Acceptance

Final Acceptance is when the project is completed and functions according to the requirements in Section 1.0, Exhibit A. Any intermediate acceptance of sub-deliverables does not complete the requirement of Final Acceptance.

4. Staffing

4.1. Contractor Representative

The Contractor must appoint qualified individuals, specifically assigned to this State of Michigan Contract, that will respond to State inquiries regarding the Contract Activities and answer all questions related to the Contracts subject matter.

Staff Assigned to Task:

All INS captive actuaries are experienced, qualified and carry FSA/ASA or FCAS/ACAS designations, and are members of the American Academy of Actuaries. All actuaries assigned to State examinations will be dedicated to the State for the duration of the project.

Following are bios of the INS staff who are expected to work on captive actuarial examinations for the State. It is possible that additional staff members (either Associates or Fellows of the CAS or SOA) would be assigned to specific examinations and if so, they will be listed in any specific RFP.

David J. Macesic, ACAS, MAAA, Chief Property/Casualty Actuary of INS, manages all aspects of INS' property/casualty actuarial team. He has been assisting regulators exclusively since he joined INS in 1992. Mr. Macesic oversees the property/casualty actuarial practice, which includes scheduling actuaries for risk-focused examinations, rate and rule applications, captive application reviews, and other special projects. He also has performed as the lead or peer review actuary in risk-

focused examinations, including primary reviews of subject companies' risks related to actuarial activities such as loss and loss adjustment expense reserving, pricing and underwriting, reinsurance ceded and assumed, including assistance to the examination team in key areas, such as corporate governance, claims and underwriting. Mr. Macesic has been the lead actuary performing quality control reviews on a majority of INS' property/casualty assignments. He has also performed and managed reserve reviews in conjunction with over one hundred-fifty financial examinations for numerous regulatory agencies. Mr. Macesic began his actuarial career in 1979 with Colonial Penn Insurance.

Jacqueline M. Lewis, FCAS, MAAA, joined INS in February of 2013 and has since been involved in a broad range of actuarial services, including loss reserve analysis, rate reviews, captive application reviews, and training. Ms. Lewis has also performed numerous reserve and pricing reviews in conjunction with risk-focused examinations. Ms. Lewis is the lead coordinator of captive examinations for INS, and in this capacity presented at the Delaware Captive Insurance Association Fall Forum in October 2014. She is also the lead INS representative for regulatory review of companies' Own Risk and Solvency Assessments (ORSAs). Since joining INS in 2013, she has been selected twice to speak at the annual SOFE Career Development Seminar, with topics ranging from the actuarial role in pricing activities in a risk-focused examination to ORSA. Prior to joining INS, Ms. Lewis spent nine years as a senior consultant for Towers Watson, where she was engaged in multiple primary insurance and reinsurance reserve reviews and related statutory opinion support; in addition, Ms. Lewis served as co-chair of Towers Watson's Financial Reporting Professional Excellence Committee. Ms. Lewis began her career in 1991 with General Accident Insurance, and joined ACE USA in 1998 where she served as a pricing actuary/director for national accounts and later as assistant vice president and pricing actuary of the Consumer Solutions Group.

Allan R. Becker, FCAS, MAAA, joined INS in September of 2015 with over 30 years of experience in insurance company operations. Mr. Becker had been chief actuary and senior vice president of the Harleysville Insurance Group since 2005. Prior to that, Mr. Becker had worked at ACE USA and its predecessor organization, CIGNA Property & Casualty, for 20 years, in a variety of actuarial management roles which included overseeing casualty risk pricing for workers compensation, commercial umbrella, and primary casualty lines of business, as well as overseeing the actuarial reserving area. Mr. Becker has extensive experience in reserving, pricing, reinsurance, and financial modeling with an expertise in the workers compensation line of business. At INS, Mr. Becker will be involved in a wide range of actuarial services, including pricing and reserve reviews in conjunction with risk-focused company examinations, rate analyses, captive application and examination reviews, and special projects.

Michael W. Morro, ACAS, MAAA, has been assisting regulators exclusively since he joined INS in 2002. Mr. Morro is involved in a broad range of property/casualty regulatory services, including risk-focused examinations, loss reserve analyses, rate reviews, captive application reviews, reinsurance treaty reviews, workers compensation discounting reviews, and training. He has also performed numerous reserve reviews in conjunction with risk-focused examinations for many insurance departments. He has the sole responsibility for reviewing Commercial Automobile rate filings. Mr. Morro is the lead coordinator of captive applications for INS. Mr. Morro began his actuarial career in 1987 with Colonial Penn Insurance and moved to General Accident Insurance in 1992, which eventually became One Beacon. During Mr. Morro's career, he prepared rate filings and provided support for insurance department questions, conducted market reviews, performed profitability analysis of business by various segments, provided support to regional offices and management for strategic planning and monitored industry actions and trends.

James McCreesh, FCAS, MAAA, joined INS in September of 2017 with over 34 years of actuarial experience. Since 2009, Mr. McCreesh has been providing actuarial consulting services. Services provided include loss reserve reviews, statutory actuarial opinions, audit support, reserve reviews for statutory risk focused financial examinations, risk transfer reviews, rate filings, economic capital model reviews, economic balance sheet analysis, purchase GAAP accounting support, and due diligence support. From 2001 through 2009, Mr. McCreesh was the chief actuary for United America

Insurance Group with management responsibilities for loss reserving and actuarial pricing. Prior to 2001, Mr. McCreesh performed loss reserve analysis for primary and reinsurance companies and provided actuarial pricing analysis for reinsurance contracts.

John R. Pedrick, FCAS, MAAA, first joined INS in 2013, and returned in 2018. He assists regulators exclusively. He provides actuarial services in a wide range of property/casualty areas, including rate filing reviews, risk focused examinations, loss reserve analyses, and captive applications. He has an extensive background in workers compensation systems, product and rate regulation, product management, and regulatory policy. He also provides advice for communicating actuarial topics to general audiences, including approaches to sensitive issues. His career includes two large multi-line insurance groups and a mid-sized personal lines insurance group. He worked as an insurance regulator in Ohio, rising to the position of Assistant Director and then as Chief Actuarial Officer for the Ohio Bureau of Workers Compensation. He was the Assistant Vice President for State Relations at ISO and Vice President of Actuarial Services at the Pennsylvania and Delaware Compensation Rating Bureaus. Mr. Pedrick also serves the actuarial profession as Chairperson of the Continuing Education Compliance Committee of the Casualty Actuarial Society, as well as the Workers Compensation Committee and the Government-Backed P/C Insurance Programs Task Force of the American Academy of Actuaries.

Frank G. Edwards, Jr., ASA, MAAA, Chief Life/Health Actuary, began his actuarial career in 1981, and has been assisting regulators since 1994. Frank manages and supervises numerous regulatory projects, and oversees all life/health actuarial projects. Frank participates in a broad range of life and health regulatory actuarial services, including captive actuarial examinations and application reviews, reserve analysis, tax reserve analysis, policy form reviews, and rate reviews for Delaware and California, reinsurance treaty reviews, Certificates of Valuation, and has performed and managed hundreds of actuarial examinations for various insurance departments. He has performed several SPFCs on behalf of the Delaware Department of Insurance. Frank's more than twenty years' experience in the actuarial field includes positions with a number of life insurers, such as American Life Insurance Company and Philadelphia Life Insurance Company, as well as many years in the role of actuarial consultant.

Diana Goodman, FSA, MAAA began her actuarial career in 1989 with Penn Mutual Life Insurance Company, joining The INS Companies in 2015. Ms. Goodman formerly served as the vice president and chief actuary for Philadelphia Financial Life Assurance Company, and has experience in life insurance and annuity financial reporting, audit, and product management of multi-million dollar portfolios. She has been a strategic partner with finance, operations, legal, underwriting, and sales/marketing. Ms. Goodman is an expert in interest sensitive products with a proven ability to lead and achieve key objectives on time and within budget. She has a strong background in liability modeling, documentation, and controls. Ms. Goodman's core competencies include the strategic management of variable universal life & variable annuity lines (assets of \$1B each) including statutory and GAAP financial reporting, reserve specifications, audit, and SOX compliance, annual statement filings and experience studies, DAC/VOBA and loss recognition/recoverability analysis. Additionally, she has developed and maintained actuarial models including audit sign-off, model governance documentation, and SOX controls. Ms. Goodman's experience includes management of actuarial staff and peer review resources. She has experience in the United States and Bermuda. Diana is involved in a wide range of life and health regulatory actuarial services, including captive actuarial examinations, reserve analysis, reinsurance treaty reviews, Certificates of Valuation, and has performed and managed numerous actuarial examinations for various insurance departments. She has performed several SPFCs on behalf of the Delaware Department of Insurance.

Margaret R. Hermann, FSA, MAAA joined The INS Companies in 2017. She has over 20 years of experience working with life and health insurers and has assisted regulators with insurance examinations since 2004. Ms. Hermann has assisted financial examiners by providing actuarial services in the following jurisdictions: Michigan, Pennsylvania, South Dakota, Utah, and Hawaii. Her primary area of practice has been in health insurance. She has experience working with numerous health insurance products, such as medical, dental, pharmacy, Medicare supplement, long term

disability, short term disability, waiver of premium and long term care. She has performed actuarial valuations, financial examinations, captive application reviews and prepared statements of actuarial opinion as the appointed actuary for several health plans.

Joseph C. Higgins, FSA, MAAA has been assisting insurance regulators exclusively since 2004, when he joined INS. Joe's twenty-six years of actuarial experience prior to joining INS consisted of various actuarial positions with Allstate Life Insurance Company and Affiliated Companies, Keystone State Life Insurance Company, where he attained the title of Vice President, Chief Actuary and Treasurer, and Huggins Financial Services, where he served as Assistant Vice President. Joe is involved in a wide range of life and health regulatory actuarial services, including form reviews, reserve analysis, tax reserve analysis, reinsurance treaty reviews, Certificates of Valuation, and training seminars for various insurance departments. He has performed several SPFCs on behalf of the Delaware Department of Insurance. Joe has supervised and performed numerous captive actuarial examinations for insurance departments, and hundreds of policy form reviews on behalf of Delaware and Minnesota.

Athanasios (Tom) Rousseas, ASA, MAAA began his actuarial career in 1986 with the CIGNA Corporation, and has been assisting regulators since 1999. Tom's experience includes comprehensive actuarial services, including rate filing reviews for the state of Delaware, reserve analysis, and special projects. He has performed hundreds of actuarial examinations for state insurance departments, including captive actuarial examinations. Tom has assisted on several SPFCs on behalf of the Delaware Department of Insurance.

The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

4.2. Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8 am to 5 pm EST.

4.3. Technical Support, Repairs and Maintenance—Reserved

4.4. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.

4.5. Key Personnel

The Contractor must appoint an individual who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 48 hours.

INS' Key Personnel with reference to captive actuarial examinations consists of Jacqueline M. Lewis, FCAS, MAAA and Diana Goodman, FSA, MAAA. Jacqueline M. Lewis, FCAS, MAAA will serve as the individual responsible for day-to-day operations of property/casualty captive actuarial examinations, while Diana Goodman, FSA, MAAA, will serve as the individual responsible for the day-to-day operations of life/health captive actuarial examinations. These individuals will respond to any State inquiries within forty-eight hours. Biographies for our Key Personnel are provided in section 4.1, above.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the

individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this 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"). An Unauthorized Removal 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. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

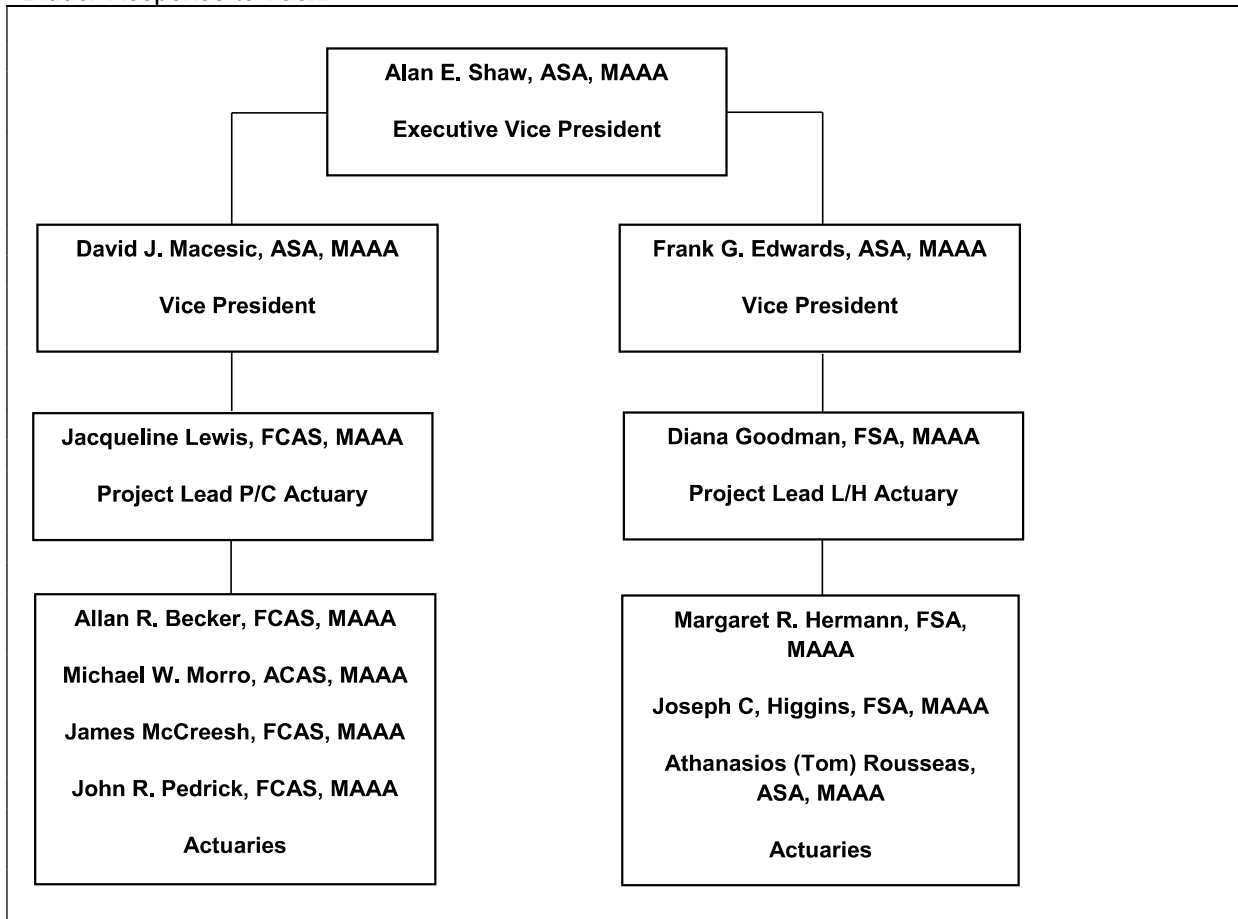
Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

4.6. Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.

Bidder Response to Task:



4.7. Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.

The relationship of the subcontractor to the Contractor.

Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.

4.8. Security

The Contractor will be subject the following security procedures:

The Contractor must explain any additional security measures in place to ensure the security of State facilities.

The bidder's staff may be required to make deliveries to or enter State facilities. The bidder must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks. The State may require the Contractor's personnel to wear State issued identification badges.

5. Project Management

5.1. Project Plan

Identify the project plan and how it will be managed; or ask Contractor to propose a project plan. Project plan should identify items such as the required contact personnel; the date the project plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information.

The Contractor will carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Effective Date, the Contractor must submit a project plan to the Program Manager for final approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

5.2. Meetings

The Contractor must attend the following meetings:
Kick-off meeting within 30 calendar days of the Effective Date.

The State may request other meetings, as it deems appropriate.

5.3. Reporting

The Contractor must explain its reporting capabilities and any reporting that is included in its proposal.

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be Master Agreement and Purchase Order.

8. Invoice and Payment

8.1. Invoice Requirements

a. Complete Exhibit C and submit with Proposal.

b. Bidders are encouraged to offer quick payment terms (i.e. _____% discount off invoice if paid within _____ days). This information can be noted on the Bidders price proposal (see Exhibit C). This may be a factor considered in our award decision.

c. 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 for current rates.

d. The selected Contractor will be required to submit an Administrative Fee (see Section 2.031) on all payments remitted under the Contract. The Bidder should consider Administrative Fee requirements when developing its price proposal. Extended purchasing program volume requirements are not included, unless stated otherwise.

e. All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

f. The State will pay the invoice upon conclusion of the financial exam.

8.2. Payment Methods

The State will make payment for Contract Activities will be Purchase Order.

8.3. Procedure—Deleted—Not Applicable

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

STATE OF MICHIGAN

Request For Proposal No. 190000002412
CAPTIVE INSURANCE COMPANY ACTUARIAL EXAMINATIONS

SCHEDULE B PRICING

1. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: 2 % discount off invoice if paid within 15 days after receipt of invoice.

2. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.
3. The price proposal will be submitted in accordance with the second tier, competitive selection process as explained in Schedule A.

Staff/Role	Hourly Rate
Chief Life/Health Actuary	\$210.00
Lead Life/Health Actuary	\$210.00
Staff Life/Health Actuary	\$210.00
Chief Property/Casualty Actuary	\$265.00
Lead Property/Casualty Actuary	\$260.00
Staff Property/Casualty Actuary	\$260.00