



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

CONTRACT CHANGE NOTICE

Change Notice Number **3**
to
Contract Number **210000001162**

CONTRACTOR	WHEELS LLC
	666 Garland Place
	Des Plaines, IL 60016
	Jack Leffler
	224-567-1394
	jleffler@wheels.com
	CV0017028

STATE	Program Manager	Roy Cischke	DTMB
		517-322-5148	
		cischker@Michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY				
FLEET MANAGEMENT SERVICES				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
October 1, 2021	September 30, 2026	3 - 1 Year	September 30, 2026	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		September 30, 2026
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$375,000,000.00	\$0.00	\$375,000,000.00		
DESCRIPTION				
Effective 6/10/2024 telematics services and related pricing shall be added to this contract (see attached). All other terms, conditions, specifications and pricing remain the same. Per agency request, and DTMB Procurement approval.				

**THIRD CHANGE NOTICE
TO
CONTRACT NO. 210000001162**

The State of Michigan (the “State”) and Wheels, LLC (“Contractor”) hereby agree that the above referenced contract (the “Contract”) shall be amended as follows:

1. Addition of Connected Vehicle Services Program.

1.1. In Schedule A, Section 1.1 “REQUIREMENTS, SERVICES, DELIVERABLES” of the Contract, the following new Section “J. Connected Vehicle Services Program” is hereby added to the end thereof:

J. CONNECTED VEHICLE SERVICES PROGRAM.

(i) **Overview.** Pursuant to the Connected Vehicle Services Program (the “CVS Program”), Wheels will coordinate with an applicable third-party vendor, currently Geotab (the “CV Provider”), in order to enable the State to order or engage, as applicable, cameras, telematics, GPS technology and on-board diagnostics (OBD) and other connected vehicle devices (individually, a “Unit”: and collectively, “Units”) which will collect and transmit selected vehicle data (“Vehicle Data”) for use in the manner described in this clause (collectively, the “CV Services”). As used in this Agreement, the term “Unit” shall include, without limitation, Units that are physical devices that are installed in a vehicle and modems built-in to a vehicle by the applicable manufacturer (“OEM Unit”) which, in either case, gather Vehicle Data and integrate with the CV Provider and Contractor.

(ii) **Installation, Activation & De-Activation.** For Vehicles in the field, upon request from the State, Wheels will coordinate with the CV Provider to arrange for the installation of Units for the State.

(iii) **Web Access.** The State will access connected Vehicle Data through a link on the Wheels website to the CV Provider’s web tools. The State understands that Wheels will provide a link from Wheels’ website to the CV Provider’s website, but that Wheels assumes no responsibility for the availability of data on the CV Provider’s website.

(iv) **Level 1 Support.** Wheels will provide support for the CVS Program as set forth herein at no extra cost to the State. Support is limited to answering the State’s phone calls, invoicing, arranging for activation or deactivation of Units, training, and implementation. Telephone support by qualified personnel on the basic use and maintenance of the connected vehicle Units will be provided via a toll-free telephone number weekdays from 8:00am to 5:00pm Eastern Time (national holidays excepted).

(v) **Wheels’ Obligation-Risks of Failure.** Wheels’ obligation concerning the provision of the CV Services is limited to arranging for activations, installations and deinstallations as needed, administration and billing. Wheels assumes no responsibility for the quality of data provided by the CV Provider, the quality or operation of any Unit, or the installation or deinstallation of any Unit. Wheels will work on the State’s behalf to address any such issues with the Connected Vehicle Provider.

(vi) **Sole Agreement; No Outstanding Claims.** The State agrees that the provisions set forth in this Section J are independent of and not conditional upon any other agreement between the State and any other person or entity (including the CV Provider) concerning the maintenance or operation of the Units to be used by the State. The preceding sentence notwithstanding, the CV Provider’s user agreement and terms shall apply to the State’s use of the CV Provider’s services and are attached as *Exhibit 2* to this *Schedule A*. No OEM Units will be activated until the State agrees to the user agreement and terms of such OEM.

(vii) **Termination.** For all Units: The State may Terminate a Unit at any time at no cost, and the State shall provide Wheels with written (electronic) notification of any requested terminations at least three business days in advance of the desired termination date.

(viii) **Taxes and Fees.** The State agrees, upon written notice from Wheels or the CV Provider, to pay all taxes and fees charged, assessed or levied by any governmental agency or any public utility in connection with the State’s use of any Unit.

(ix) **Pricing/Payment.** The State agrees to pay Wheels for the Services as follows:

- (a) Each month, Wheels will bill the State for all Units in accordance with the pricing set forth in *Attachment 1 to Schedule B* of the Contract. Wheels will also bill the State for hardware and accessories, installation, deinstallation and monthly service, as set forth in *Attachment 1 to Schedule B* of the Contract, and the State will pay for such charges in accordance with the terms of the Contract. Wheels will bill all charges in arrears, and such billing will be based on billing data received from the CV Provider.
- (b) The pricing applicable to a Unit, any related hardware, and the monthly service fee for such Unit may be changed by Wheels at any time upon written notice to the State and consent thereto by the State,

(x) **Liability.** Wheels will not be liable in connection with (a) access to a vehicle provided to any driver that has been assessed based on Vehicle Data; and (b) the provision or failure to provide any notifications or consents regarding the CVS Program.

1.2. The parties agree that this Change Notice shall add (a) the CVS Program as described in Section 1.1. hereof to the Services selected by the State to the Contract; and (b) the CV Provider's user agreement, attached hereto and made a part hereof as *Exhibit A* (together with Attachment 1 and Attachment 2 attached thereto), to Exhibit 2 of Schedule A of the Contract, and that on and after the Change Notice Effective Date, all terms, covenants and provisions of the Contract shall apply to the CVS Program and the CV Provider's user agreement, as well as all other Programs selected by the State, as if the CVS Program and the CV Provider's user agreement described herein had originally been set forth in Schedule A to the Contract and selected by the State.

2. Section 32 General Indemnification. In Section 32 "General Indemnification" of the Standard Contract Terms of the Contract, the last paragraph is hereby deleted in its entirety and replaced with the following:

"For the avoidance of doubt, the indemnification obligations of the Contractor set forth in this Section 32 "General Indemnification" of the Contract, shall not apply to (i) the EV Public Charging Services or any services provided by an electric charging vendor to the State, and/or (ii) the Connected Vehicle Services Program or any services provided by a CV Provider (as defined in Section J of Schedule A). In addition, for the avoidance of doubt, the provisions of Section 8(b) of the Contract apply to each electric vehicle that is leased under the applicable Lease and to each vehicle enrolled in the Connected Vehicle Services Program."

3. Section 34 Limitation of Liability. In Section 34 "Limitation of Liability and Disclaimer of Damages" of the Standard Contract Terms of the Contract, the last paragraph is hereby deleted in its entirety and replaced with the following:

"THE STATE UNDERSTANDS AND AGREES THAT CONTRACTOR IS PROVIDING BILLING AND ADMINISTRATIVE SERVICES TO THE STATE RELATED TO (i) EV PUBLIC CHARGING SERVICES PROVIDED BY AN ELECTRIC CHARGING VENDOR TO THE STATE, AND (ii) THE CONNECTED VEHICLE SERVICES PROGRAM OR ANY SERVICES PROVIDED BY A CV PROVIDER (AS DEFINED IN SECTION J OF SCHEDULE A), THAT CONTRACTOR IS NOT RESPONSIBLE FOR THE SERVICES PROVIDED BY ANY OF SUCH VENDORS, AND THAT IN NO EVENT SHALL CONTRACTOR OR ANY AFFILIATE OF CONTRACTOR BE LIABLE FOR ANY DAMAGES OF ANY NATURE RESULTING FROM ANY ACT OR OMISSION OF ANY OF SUCH VENDORS OR ANY OTHER THIRD PARTY RELATING TO THE EV PUBLIC CHARGING SERVICES OR THE CONNECTED VEHICLE SERVICES PROGRAM."

4. New Section B in Attachment 1 to Schedule B. Section B. Electric Vehicle Charging Billing and Administration Services Pricing (as provided in Change Notice #1) is hereby deleted in its entirety, and the Section B. Additional Services Pricing, attached hereto and made a part hereof as *Exhibit B*, is hereby inserted in lieu thereof.

5. Contract Remains in Full Force and Effect. Except as specifically set forth in this Change Notice, all the terms and conditions of the Contract shall remain in full force and effect and the Contract, as amended by this Change Notice, is hereby ratified and reaffirmed in all respects.

EXHIBIT A
CONNECTED VEHICLE PROVIDER USER TERMS

Government End Use of Geotab Products

- A. Exclusive Property of Geotab – Geotab in-vehicle telematics hardware, software (including, without limitation, application programming interfaces), services and other products, including updates and upgrades thereof (collectively “**Products**”) are protected by copyright and other intellectual property rights. Software and services are not sold, but only licensed or made available on a limited basis. Except for the rights granted to the government customer or ordering agency (the “**Customer**”) under the contract to which these terms are incorporated (the “**Contract**”), and notwithstanding any conflicting terms of the Contract or reference to the “sale” of Products to the Customer, all rights, title, and interest (including all copyrights, trademarks, service marks, patents, inventions, trade secrets, intellectual property rights and other proprietary rights) in and to the Products and any copies thereof (regardless of the form or media upon which such copies are recorded) are and shall remain exclusively owned by Geotab and its licensors, and Geotab has and retains the exclusive ownership to such Products and any and all materials owned or licensed to Geotab including, but not limited to, all software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Geotab under the Contract, whether incorporated in a Product or necessary to use a Product (collectively, “**Geotab Property**”). Geotab Property will be licensed to the Customer as set forth in this Contract or a Customer-approved license agreement: (i) entered into as an attachment to this Contract; (ii) obtained by the Customer from the applicable third-party vendor; or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.
- B. License – Geotab grants Customer a limited, revocable, non-exclusive right to use any software, firmware and intellectual property (collectively, “**software**”) embodied in Products solely for Customer’s own internal business purposes and solely in connection with Customer’s use of our or other compatible in-vehicle telematics devices, on the condition and so long as Customer complies with all terms and conditions of the Contract, including these additional terms. Except as otherwise provided herein, such rights are non-assignable, non-transferable and non-sublicensable. Customer may not extract, copy or use the software in connection with any other product or for use on any other device.
- C. Restrictions - Products may contain technological measures (including the ability to disable the equipment, software, services, or other Product) designed to prevent the illegal usage of software or other violations of the Contract or applicable law or regulation (“**protective measures**”). The Customer agrees that, to the fullest extent permissible by applicable law, it shall not:
- i. remove or attempt to remove any marks, labels, or legends from Products;
 - ii. circumvent or attempt to circumvent protective measures;
 - iii. disclose, transfer, or transmit in any manner any services, software, or other copyrightable or licensed elements of Work whether temporarily or permanently;
 - iv. modify, adapt, translate, reverse engineer, decompile, disassemble, or convert into human readable form any software elements of Products;
 - v. use Products in a manner that violates laws or rights of others;
 - vi. use Products as part of a fail-safe design for dangerous or emergency applications or as part of control measures required for hazardous materials, life support systems, munitions or weapons;
 - vii. engage in any activity that interferes or disrupts services or any computer, software, network or other device used to provide services;
 - viii. provide third parties with access to Products; and
 - ix. attempt, or cause, permit, or encourage any other person to do any of the foregoing.

The Customer must comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including without limitation laws applicable to discrimination and unfair employment practices, and export control laws of the United States of America, and shall not export or re-export any Products directly or indirectly, or allow use of Products, in contravention of such laws or regulations.

- D. Updates and Patches - Geotab may, from time to time, cause software updates to be automatically installed with or without prior notification to the Customer or provide updates through Geotab's website. The Customer consents to such automatic installations and agree to use only the updated version once it has been installed.
- E. Ownership and Use of Vehicle Data - Geotab claims no ownership of any vehicle data that the Customer generates or associates using Products installed in their particular vehicles ("**Individual Vehicle Data**") and which the Customer transmits or processes using Products. The Customer agrees that, both during and after the initial term and each renewal term of the Contract:
 - i. Geotab may process and transmit Individual Vehicle Data to provide, maintain, and improve its products and perform obligations under this Contract and applicable laws;
 - ii. Geotab may, in furtherance of such purposes, based on certain non-position data elements in vehicle databases related to this Contract (such as vehicle VIN), and from time to time in certain jurisdictions, query databases maintained by reputable third party providers for additional information on a confidential basis;
 - iii. Geotab may, in accordance with its data analytics policy (a copy of which shall be made available to the Customer upon request), compile, store and use aggregated data and system usage information to monitor and improve Geotab's products and for the creation of new products, provided that (a) aggregated data used by Geotab in this manner will no longer be associated with a device and will not be Individual Vehicle Data, and (b) Geotab will not attempt to disaggregate the data or re-associate it with a device without consent of the Customer, as applicable, or unless (1) legally compelled to do so, or (2) required for safety or troubleshooting purposes.
- F. Geotab Use of Feedback - The Customer agrees that any feedback, input, suggestions, recommendations, troubleshooting information or other similar information that the Customer provides or which is made available to Geotab or Subcontractors may be used by Geotab to modify, enhance, maintain and improve its products and shall become the exclusive property of Geotab without any obligation or payment to the Customer whatsoever.
- G. Security - The Customer agrees that they will be solely responsible for keeping all user identifications and passwords ("**Login Credentials**") secure, and promptly notifying Geotab if any Login Credentials have been, or are suspected to have been, compromised. Geotab will be entitled to treat all communications, instructions and transactions as authorized if Login Credentials are used, unless the Customer has notified Geotab of compromise or unauthorized use. Geotab shall have the right to terminate or suspend Login Credentials if it suspects fraudulent or unauthorized activity.
- H. Safety - The Customer acknowledges and agrees that:
 - i. certain vehicles and installation configurations require professional installation, additional equipment or vehicle modifications;
 - ii. improper installation can lead to short circuits, damage to Products or vehicles, malfunction of vehicle systems or controls, and risks including the risk of fire and death or significant injury to persons and property;
 - iii. installation of any Products ordered on a self-install basis will be at the sole risk of the Customer, mitigation of all potential hazards will be the responsibility of the Customer, and Geotab will have no liability to the Customer or any other person associated with a failure to install Products in accordance with Geotab installation documentation, applicable laws, vehicle manufacturer requirements and recommendations, and industry standards.

The Customer agrees to comply with all safety-related instructions communicated by Geotab, including removing Products from a vehicle if Geotab determines that the vehicle is not suitable for the use of Products.

- I. Third Party Provider Terms - The Customer acknowledges that use of the Products includes the use of third party systems and services, including without limitation: telecommunications facilities and services, cloud storage services, mapping data services, and posted speed limit data services. Use of the Products may include the use of OEM systems and services. To the extent that provision of Products in connection with this Contract involves the use of third party systems or services, the Customer agrees to the third party terms set out at the following links, which terms are incorporated by reference into and form part of the Contract and contain license and use limitations; limitations of liability; disclaimers; choice of law, arbitration and forum selection clauses; and other important terms and conditions that affect the rights and obligations of the Customer:

- i. wireless provider terms are and will be set out at Attachment 1; and
- ii. other provider terms (including OEM, cloud storage, mapping and posted road speed provider terms) are and will be set out at Attachment 2.

ATTACHMENT 1 TO EXHIBIT A – WIRELESS PROVIDER TERMS

By accepting this Geotab End User Agreement, Customer also accepts these Wireless Provider Terms which relate to the wireless services used to transmit Individual Vehicle Data from the device to our servers.

The following terms apply if you have subscribed for wireless communication services (“services”) through Geotab. “You” means Customer; “us” or “we” means Geotab. References to the “underlying carrier” refer to the provider of the wireless communication services or its reseller, in either case from whom we procure wireless communication services.

1. You acknowledge that the services provided by the underlying carrier are made available only when the Product is in operating range of the facilities of the underlying carrier. In addition, the services of the underlying carrier may be temporarily refused, interrupted, or limited at any time because of: (i) limitations to the underlying carrier facilities; (ii) transmission limitations caused by atmospheric, topographical or other factors outside of the underlying carrier's reasonable control; or (iii) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of the services provided by the underlying carrier.
2. You acknowledge that services may be temporarily suspended or permanently terminated upon little or no notice in the event that our agreement with the underlying carrier is suspended or terminated or in the event of any violation of the underlying carrier's acceptable use policy or other rules or policies.
3. You acknowledge that: (i) it is possible for third parties to monitor data traffic over the facilities of the underlying carrier and neither privacy nor security can be guaranteed; (ii) the carrier may also monitor (including tracking modem location) and control the use of the wireless services in accordance with applicable law for their own legitimate purposes. For clarity all individual Vehicle Data is encrypted while in transit over carrier networks.
4. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING CARRIER BY VIRTUE OF THIS AGREEMENT AND THAT YOU ARE NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN US AND THE UNDERLYING CARRIER. IN ADDITION, YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE UNDERLYING CARRIER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION REGARDING ROAMING AVAILABILITY OR COVERAGE AND SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU, REGARDLESS OF THE FORM OF THE ACTION, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. THE UNDERLYING CARRIER IS A THIRD PARTY BENEFICIARY OF THESE TERMS, AND MAY TAKE ANY EQUITABLE OR LEGAL ACTION REQUIRED TO ENFORCE SAME.
5. The SIM card supplied with the equipment may only be used in such equipment and in no other wireless device. You must not provide, sell or transfer in any manner any SIM card, whether separately or together with any device, to any individual or entity or program, reprogram, or tamper with any SIM card in any manner. You may not resell the service to any other party.
6. You may only roam incidentally to your use of the Products in your country of residence. The foregoing may not apply to services provided by certain underlying carriers.
7. You shall not publish any results of any benchmark or performance tests of the services or any components thereof.
8. The underlying carrier collects information about the approximate location of equipment in relation to its cell towers and the Global Positioning System (“GPS”). The underlying carrier uses that information, as well as other usage and performance information also obtained from its network and the equipment, to provide the services and to maintain and improve its network and the quality of the wireless experience. The underlying carrier may also use location information to create aggregate data from which your personally identifiable information has been removed or obscured. Such aggregate data may be used for a variety of purposes such as scientific and marketing research and services such as vehicle traffic volume monitoring.
9. Services may be restricted or cancelled if there is a reasonable suspicion of abuse or fraudulent use. You are solely liable for charges, costs or damages resulting from any abuse or fraud facilitated by you.

ATTACHMENT 2 TO EXHIBIT A – OTHER PROVIDER TERMS

By accepting the Geotab End User Agreement, Customer also accepts these Other Provider Terms.

In these terms, “we” “us” and “our” mean Geotab and “you” and “your” mean Customer. Our Products contain or function in connection with software, services and other products made or offered by companies that are not affiliated with Geotab, many of which require Geotab to pass through their terms to you and/or require you to accept their terms as a condition to your use of our Products. These Other Provider Terms contain important terms and conditions that affect your rights and obligations. Some of the providers detailed below reserve the right to amend their terms from time to time, as specified below, and by accepting such Other Provider Terms as part of the Geotab End User Agreement, you agree to accept amended versions of such Other Provider Terms. You agree that it is your responsibility to review, determine applicability and comply with the terms set forth below as well as to check for updates and changed URLs.

A. DATA STORAGE

We use more than one provider for data storage services. Currently we use Google Cloud Platform as our primary cloud data storage provider. As such, your data will be stored on Google’s servers in various locations. The following terms are applicable to data storage services. If you have any questions about where your Individual Vehicle Data is stored, please contact us.

Google Cloud Platform Terms

Consent. You consent to the transmission, storage, use and processing of your data by Geotab and/or Google according to this Agreement using Google’s Cloud Platform. Additionally, you consent to Google processing and storing your data anywhere Google or its agents and sub-processors maintain facilities for which Geotab has contracted, except if you are located in Europe, in which case we have made arrangements to have your data stored on Google servers in Europe. By using the services, you consent to this processing and storage of your data. Under this Agreement, Google is merely a data processor.

Google Cloud Platform Acceptable Use Policy. You agree to be bound by the Google Cloud Platform Acceptable Use Policy, available at: <https://cloud.google.com/terms/aup>. Violation of the Google Cloud Platform Acceptable Use Policy may result in immediate removal (and loss) of your data.

U.S. Government Users. The Services were developed solely at private expense and are commercial computer software and related documentation within the meaning of the applicable Federal Acquisition Regulations and their agency supplements.

B. POSTED SPEED LIMIT DATA

If you are using posted speed limit data provided by HERE, the following terms apply to you.

Copyright. The posted speed limit data (“Speed Data”) is provided for your personal, internal use only and not for resale. It is protected by copyright, and is subject to the following terms and conditions which are agreed to by you, on the one hand, and Geotab Inc. (“Geotab”, “we” or “us”) and our licensors (including their licensors and suppliers) on the other hand.

© 20XX HERE. Copyright notices for specific countries can be found at: <https://legal.here.com/terms/general-content-supplier/terms-and-notice/>. All rights reserved.

Internal Business Use Only. You agree to use this Speed Data together with our Products and services for the internal business purposes for which you were licensed, and not for service bureau, time-sharing or other similar purposes. Accordingly, but subject to the restrictions set forth in the following paragraphs, you may copy this Speed Data only as necessary for your internal business use to (i) view it, and (ii) save it, provided that you do not remove any copyright notices that appear and do not modify the Speed Data in any way. You agree not to otherwise reproduce, copy, modify, decompile, disassemble, create any derivative works of, or reverse engineer any portion of this Speed Data, and may not transfer or distribute it in any form, for any purpose, except to the extent permitted by mandatory laws.

Restrictions. Except where you have been specifically licensed to do so by us, and without limiting the preceding paragraph, you may not (a) use this Speed Data with any products, systems, or applications installed or otherwise connected to or in communication with vehicles, capable of vehicle navigation, positioning, dispatch, real time route guidance or similar applications; or (b) with or in communication with any positioning devices or any mobile or wireless-connected electronic or computer devices, including without limitation cellular phones, palmtop and handheld computers, pagers, and personal digital assistants or PDAs.

HERE End User Terms. Except for use as part of the MyGeotab service, where you have been specifically licensed by Geotab, you agree that you are bound by the HERE End User Terms, available at: <https://legal.here.com/us-en/terms/end-user-license-agreement>.

C. GOOGLE MAPS TERMS

If you are using map data provided by Google, your use of Google Maps features and content is subject to the then-current versions of the: (1) Google Maps/Google Earth Additional Terms of Service at https://maps.google.com/help/terms_maps.html; and (2) Google Privacy Policy at <https://www.google.com/policies/privacy/>.

D. MAPBOX MAP TERMS

If you are using map data from Mapbox, the following terms apply to you.

License to Use Your Data. Limited to the purpose of hosting your content so that mapping services can be provided, you grant Mapbox a non-exclusive, worldwide, royalty-free, transferable right and license (with the right to sublicense), to use, copy, cache, publish, display, distribute, modify, create derivative works, and store such content and to allow others to do so. This right and license enables Mapbox to host and mirror your content on its distributed platform. You warrant, represent, and agree that you have the right to grant Mapbox these rights.

US Government. If you are a US Government User there are modified/additional terms that apply to you; available at: <https://www.mapbox.com/usg-tos/>.

EXHIBIT B
ADDITIONAL SERVICE PRICING

Section B. Additional Service Pricing

ELECTRIC VEHICLE SERVICES PROGRAM	FEES
Electric Vehicle Public Charging Billing and Administration Services	<p>\$6.00 per electric vehicle in the State's fleet per month</p> <p>All transaction costs and any vendor fees for EV Public Charging Services, including all amounts charged to the EV Public Charging Payment Tool, such as charges for energy, parking and vendor fees for any free charging transactions, will be passed through to the State.</p> <p>Amounts billed for this service will not count towards any rebate calculated pursuant to the State's Fuel Management Program.</p>

CONNECTED VEHICLE SERVICES PROGRAM¹	FEES
Geotab Units (as applicable)	
Monthly Service – Pro Plus Self-Installed Bundle Plan (includes Vehicle Hardware and Harness but not installation)	\$19.25 per Unit per month
Monthly Service – Pro Plus Plan (includes Vehicle Hardware, Harness and installation)	\$20.50 per Unit per month
Public Works Add-On Plan	\$15.75 per Unit per month
Actual shipping and deinstallation charges, if applicable, will be billed to the State at the amounts charged by the CV Provider or de-installer, as applicable. Any additional equipment required due to vehicle type, age or optional configurations may result in additional cost to the State.	

¹The above pricing is subject to change based on changes in CV Provider and OEM product offerings, pricing, and any applicable tariffs.



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget

320 S. WALNUT ST., LANSING, MICHIGAN 48933

P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number 2

to

Contract Number 210000001162

CURRENT CONTRACTOR	WHEELS INC	NEW CONTRACTOR	WHEELS LLC
	666 Garland Place		666 Garland Place
	Des Plaines, IL 60016		Des Plaines, IL 60016
	Jack Leffler		Jack Leffler
	224-567-1394		224-567-1394
	jleffler@wheels.com		jleffler@wheels.com
	CV0017028		CV0017028

STATE CONTACTS

Program Manager	Roy Cischke	DTMB	Contract Administrator	Yvon Dufour	DTMB
	517-322-5148			(517) 249-0455	
	cischker@Michigan.gov			dufoury@michigan.gov	

CONTRACT SUMMARY

FLEET MANAGEMENT SERVICES

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 1, 2021	September 30, 2026	3 - 1 Year	September 30, 2026
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
P-Card	Direct Voucher (PRC)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		September 30, 2026
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$375,000,000.00	\$0.00	\$375,000,000.00		

DESCRIPTION

Effective 1/10/2023, the following amendment is hereby incorporated into the contract. Section 9 of "Standard Contract Terms" and Section 1.3 of "Schedule A" are hereby modified (see attachment below). In addition, the following amendment is hereby incorporated into the contract. Wheels, Inc. is changed to Wheels, LLC. Wheels, LLC is the successor-in-interest to Wheels, Inc. The Tax ID has not changed as a result. The Customer Number will remain the same. Key employee contacts have not changed. All other terms, conditions, specifications and pricing remain the same. Per contractor request and agency agreement, and DTMB Procurement approval.

CHANGE NOTICE #2 TO CONTRACT NO. 210000001162 DATED OCTOBER 1, 2021 BETWEEN THE STATE OF MICHIGAN AND WHEELS, LLC.

The State of Michigan (the "State") and Wheels, LLC ("Contractor") hereby agree that the above-referenced contract (the "Contract") shall be amended as follows:

Section 9 "**Administrative Fee and Reporting**" of the Standard Contract Terms of the Contract is hereby deleted in its entirety and replaced with the following:

"Administrative Fee and Reporting. Contractor must pay an administrative fee of 1% on all payments made to Contractor for transactions with MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card:

State of MI Admin Fees: <https://www.thepayplace.com/mi/dtmb/adminfee>

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."

Section 1.3 "**Recall Requirements and Procedures**" of Schedule A - Statement of Work of the Contract is hereby deleted in its entirety and replaced with the following:

"Recall Requirements and Procedures Reporting can be set up with the State's desired frequency, in addition to being available on demand, which summarizes recall activity and status by manufacturer and/or campaign to advise the State fleet administrators of such recall campaigns which Contractor receives notice of that impact State vehicles.

If a manufacturer issues a "stop drive" recall, the Contractor will send an e-mail communication to affected State fleet administrators to facilitate awareness.

The Contractor will assist with scheduling recall-related repairs/services at an authorized repair facility, as requested.

The Contractor's Driver Services Representatives have visibility to open recall activity, allowing them to remind drivers of open recall campaigns when they call into the Contractor's help line."

Except to the extent modified by this Change Notice #2, all terms and conditions of the Contract shall remain in full force and effect.



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

CONTRACT CHANGE NOTICE

Change Notice Number **1**
to
Contract Number **210000001162**

CONTRACTOR	WHEELS INC
	666 Garland Place
	Des Plaines, IL 60016
	Jack Leffler
	224-567-1394
	jleffler@wheels.com
	CV0017028

STATE	Program Manager	Roy Cischke	DTMB
		517-322-5148	
		cischker@Michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY							
FLEET MANAGEMENT SERVICES							
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE				
October 1, 2021	September 30, 2026	3 - 1 Year	September 30, 2026				
PAYMENT TERMS		DELIVERY TIMEFRAME					
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING				
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No			
MINIMUM DELIVERY REQUIREMENTS							
DESCRIPTION OF CHANGE NOTICE							
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE			
<input type="checkbox"/>		<input type="checkbox"/>		September 30, 2026			
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE					
\$375,000,000.00	\$0.00	\$375,000,000.00					
DESCRIPTION							
Effective 5/13/2022, the following amendment is hereby incorporated into the contract. "Standard Contract Terms" shall be amended as per the following attachment. All other terms, conditions, specifications and pricing remain the same. Per contractor request and agency agreement, and DTMB Procurement approval.							

CHANGE NOTICE #1 TO CONTRACT NO. 210000001162 DATED OCTOBER 1, 2021 BETWEEN THE STATE OF MICHIGAN AND WHEELS, LLC. (as successor-in-interest to Wheels, Inc.)

The State of Michigan (the “State”) and Wheels, LLC (as successor-in-interest to Wheels, Inc.) (“Contractor”) hereby agree that the above-referenced contract (the “Contract”) shall be amended as follows:

1. In the Preamble of the Standard Contract Terms of the Contract, and throughout the Contract, any reference to Wheels, Inc. is now replaced with Wheels, LLC.
2. In Section 32 “**General Indemnification**” of the Standard Contract Terms of the Contract, the following provision is added as a new last paragraph:

For the avoidance of doubt, the indemnification obligations of the Contractor set forth in this Section 32 “General Indemnification” of the Contract, shall not apply to the EV Public Charging Services or any services provided by an electric charging vendor to the State. In addition, for the avoidance of doubt, the provisions of Section 8(b) of the Contract Terms apply to each electric vehicle that is leased under the applicable Lease.

3. In Section 34 “**Limitation of Liability and Disclaimer of Damages**” of the Standard Contract Terms of the Contract, the following provision is added as a new last paragraph:

THE STATE UNDERSTANDS AND AGREES THAT CONTRACTOR IS PROVIDING BILLING AND ADMINISTRATIVE SERVICES RELATED TO EV PUBLIC CHARGING SERVICES PROVIDED BY AN ELECTRIC CHARGING VENDOR TO THE STATE, THAT CONTRACTOR IS NOT RESPONSIBLE FOR THE SERVICES PROVIDED BY ANY SUCH VENDOR, AND THAT IN NO EVENT SHALL CONTRACTOR OR ANY AFFILIATE OF CONTRACTOR BE LIABLE FOR ANY DAMAGES OF ANY NATURE RESULTING FROM ANY ACT OR OMISSION OF ANY SUCH VENDOR OR ANY OTHER THIRD PARTY RELATING TO THE EV CHARGING.

4. In Schedule A, Section 1.1 “**REQUIREMENTS, SERVICES, DELIVERABLES**” of the Contract, the following new section “I. Electric Vehicle Charging Billing & Administrative Services” is added:

I. ELECTRIC VEHICLE CHARGING BILLING & ADMINISTRATION SERVICES

1) Contractor will provide to the State electric vehicle (“EV”) charging billing and administration services (the “EV Public Charging Services”) for EVs as requested by the State (the “State EVs”). EV charging will be done through a physical card or other electronic payment method specified by Contractor (the “EV Public Charging Payment Tool”). The EV Public Charging Payment Tool will be suitable for purchasing charging services for State EVs on participating public charging networks. If the EV Public Charging Payment Tool is a physical card, it is considered a Deliverable, any use of which constitutes Acceptance.

2) The EV Public Charging Services will include card or other electronic payment method administration, transaction reporting and integrated fleet billing. Transaction and billing data will be available through FleetView.

3) If the EV Public Charging Payment Tool is a physical card, (a 2" x 1.5" rectangular plastic tag) the State agrees to promptly notify Contractor of lost or stolen cards or suspicious use. Contractor will cancel the cards with card vendors promptly upon request of the State. The State will be liable for charges incurred through the day of cancellation when notice is given during normal business hours or the next business day when notice is given after normal business hours. The State will be liable for charges and misuse of active cards only. Contractor and card vendors will use their best efforts to identify suspicious use of cards, but will assume no responsibility for misuse of active cards. Contractor will bill the State \$15.00 for each replacement card provided.

5. In Attachment 1 to Schedule B to the Contract, the following new section "B. Electric Vehicle Charging Billing and Administration Services pricing" is added:

B. ELECTRIC VEHICLE CHARGING BILLING AND ADMINISTRATION SERVICES PRICING:

SERVICE	FEE
Electric Vehicle Charging Billing and Administration Services	<p>\$6.00 per electric vehicle in the State's fleet per month</p> <p>All transaction costs and any vendor fees for EV Public Charging Services, including all amounts charged to the EV Public Charging Payment Tool, such as charges for energy, parking and vendor fees for any free charging transactions, will be passed through to the State.</p> <p>Amounts billed for this service will not count towards any rebate calculated pursuant to the State's Fuel Management Program.</p>

Except to the extent modified by this Change Notice #4, all terms and conditions of the Contract shall remain in full force and effect



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

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000001162**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	WHEELS, INC.
	666 Garland Place
	Des Plaines, IL 60016
	Jack Leffler
	(224) 567-1394
	jleffler@wheels.com
	CV0017028

STATE	Program Manager	Roy Cischke	DTMB-VTS
		(517) 322-5148	
		cischker@michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: FLEET MANAGEMENT SERVICES			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2021	September 30, 2026	3, one-year options	
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card	<input type="checkbox"/> Payment Request (PRC)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
MISCELLANEOUS INFORMATION			
This contract is for "total cost of ownership" vehicle leasing for State Agencies.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$375,000,000

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name & Title

Agency

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Wheels, Inc. ("**Contractor**"), an Illinois corporation. This Contract is effective on October 1, 2021 ("**Effective Date**"), and unless terminated, expires on September 30, 2026.

This Contract may be renewed for up to 3 additional one-year period(s). 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.

1. Definitions. For the purposes of this Contract, the following terms have the following meanings:

"**Acceptance**" has the meaning set forth in **Section 20**.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person.

"**Allegedly Infringing Materials**" has the meaning set forth in **Section 33**.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.

"**Business Owner**" is the individual appointed by the agency buyer to (a) act as the agency's representative in all matters relating to the Contract, and (b) co-sign off on notice of Acceptance. The Business Owner will be identified in the Statement of Work.

"**Change**" has the meaning set forth in **Section 5**.

"**Change Notice**" has the meaning set forth in **Section 5**.

"**Change Proposal**" has the meaning set forth in **Section 5**.

"**Change Request**" has the meaning set forth in **Section 5**.

"**Confidential Information**" has the meaning set forth in **Section 38.a**.

"**Contract**" has the meaning set forth in the preamble.

"**Contract Activities**" includes the Services, Deliverables, or other contractual requirements set forth in **Schedule A – Statement of Work**, including any subsequent Statement(s) of Work, that the Contractor agrees to provide and the State agrees to purchase pursuant to the terms of this Contract.

"**Contract Administrator**" is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party's Contract Administrator will be identified in the Statement of Work.

“Contractor” has the meaning set forth in the preamble.

“Contractor’s Bid Response” means the Contractor’s proposal submitted in response to the State’s requests to obtain Contract Activities.

“Contractor Personnel” means all employees of Contractor or any Permitted Subcontractors involved in the performance of Services hereunder.

“Deliverables” means all items specifically identified as Deliverables in Schedule A Statement of Work. For the avoidance of doubt, in no event shall any of the following be considered Deliverables: vehicles leased by the State under the Lease, any source code, executable or design artifact of wheels.com or its related web sites, Wheels mobile applications integrated to wheels.com, or any internal systems used by Wheels in delivering the Services; or any analysis, benchmarks or derived data provided by Contractor using data beyond the scope of Client’s fleet data or in combination with Client’s fleet data. The parties agree, other than the Custom Reports referenced in Schedule A, that no Work Product is contemplated to be provided under this Contract or any SOW, and that unless the parties agree to terms related to the creation of specifically-identified Work Product by Contractor for the State in an amendment to this Contract signed by both parties, there shall be no Work Product.

“Dispute Resolution Procedure” has the meaning set forth in **Section 55**.

“DTMB” means the Michigan Department of Technology, Management and Budget.

“Effective Date” has the meaning set forth in the preamble.

“Fees” means collectively all fees collected by the Contractor pursuant to the terms of this Contract.

“Financial Audit Period” has the meaning set forth in **Section 42**.

“Force Majeure” has the meaning set forth in **Section 54**.

“Intellectual Property Rights” means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

“Key Personnel” means any Contractor Personnel identified as key personnel in **Schedule A – Statement of Work**.

“Law” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

“Lease” means the lease terms attached hereto as Exhibit 1 to Schedule A and which are incorporated into the Contract.

“Loss or Losses” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"Maintenance Release" means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

"Permitted Subcontractor" has the meaning set forth in **Section 13**.

"Person" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"Pricing" means any and all fees, rates and prices payable under this Contract, including pursuant to any Schedule or Exhibit hereto.

"Pricing Schedule" means the schedule attached as **Schedule B**, setting forth the Fees, rates and Pricing payable under this Contract.

"Program Manager" is the individual appointed by each party to (a) monitor and coordinate the day-to-day activities of this Contract, and (b) for the State, to co-sign off on its notice of Acceptance of the Deliverables. Each party's Program Manager will be identified in the Statement of Work.

"Representatives" means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

"RFP" means the State's request designed to solicit responses for Contract Activities under this Contract.

"Software" means Contractor's software set forth in the Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Configurations made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract and the License Agreement.

"Services" means any of the obligations to be performed or responsibilities to be satisfied directly by the Contractor under the Contract, including as further specified in **Schedule A - Statement of Work and the Lease**. Services shall not include (i) the manufacturing, upfitting or delivery of vehicles; (ii) the performance of maintenance and repairs on such vehicles; or (iii) fuel cards or fuel related services. The services Contractor is required to or otherwise does provide under this Contract, is further specified in **Schedule A - Statement of Work and the Lease**.

"State" means the State of Michigan.

"State Data" has the meaning set forth in **Section 37.a**.

"State Materials" means all materials and information, including equipment, documents, data, know-how, ideas, methodologies, specifications, software content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

"Statement of Work" means any statement of work entered into by the parties and attached as a schedule to this Contract. The initial Statement of Work is attached as **Schedule A**, and subsequent Statements of Work shall be sequentially identified and attached as Schedules A-1, A-2, A-3, etc.

"Stop Work Order" has the meaning set forth in **Section 27**.

“**Subcontractor**” means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role. The parties acknowledge and agree that Subcontractor does not include third-party vendors including, but not limited to, the following: maintenance and repair shops, upfitters, fueling stations, and fuel card providers.

“**Term**” has the meaning set forth in the preamble.

“**Third Party**” means any Person other than the State or Contractor.

“**Transition Period**” has the meaning set forth in **Section 31**.

“**Transition Responsibilities**” has the meaning set forth in **Section 31**.

“**Unauthorized Removal**” has the meaning set forth in **Section 15**.

“**Unauthorized Removal Credit**” has the meaning set forth in **Section 15**.

“**Work Product**” means all State-specific deliverables that Contractor is required to, or otherwise does, provide to the State under this Contract including but not limited to written materials, reports, forms, templates, and other State-specific documents and related materials together with all ideas, concepts, and processes developed in connection with this Contract whether or not embodied in this Contract. Work Product does not include software.

- 2. Duties of Contractor.** Contractor must perform the Services and provide the Deliverables described in **Schedule A – Statement of Work and the Lease**. 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 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.

- 3. Statement(s) of Work.** Contractor shall provide the Contract Activities pursuant to Statements of Work entered into under this Contract. State hereby acknowledges and agrees that the any Contract Activities hereunder may be provided by Contractor itself, or by Contractor through an affiliate of Contractor (collectively, the “Affiliates”). References to the Contractor in respect to provision of Contract Activities hereunder shall refer to the Contractor and its Affiliates. No Statement of Work shall be effective unless signed by each party’s Contract Administrator. The term of each Statement of Work shall commence on the parties’ full execution of the Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and attached as a schedule to this Contract. The State shall have the right to terminate such Statement of Work as set forth in **Sections 28 and 29**. Contractor acknowledges that time is of the essence with respect to Contractor’s obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work is strictly required.

- 4. Statement of Work Requirements.** Each Statement of Work may include the following: (a) names and contact information for Contractor’s Contract Administrator, Program Manager and Key Personnel; (b) names and contact information for the State’s Contract Administrator, Program Manager and Business Owner; (c) a detailed description of the Services to be provided under this Contract, including any training obligations of Contractor; (d) a detailed description of the Deliverables to be provided under this Contract; (e) a description of all liquidated damages associated with this Contract, if any; and (f) a detailed description of all State Resources, if any, required to complete the Implementation Plan, if such a Plan is necessary.

- 5. Change Control Process.** The State may at any time request in writing (each, a “Change Request”) changes to the Statement of Work, including changes to the Contract Activities (each, a “Change”). Upon the State’s submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section 5**. No Change will be effective until the parties have executed a Change Notice. Except as the State may

request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

- 6. 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:
Yvon Dufour 525 W. Allegan, Constitution Hall, 1 st Floor NE Lansing, MI 48933 dufoury@michigan.gov (517) 249-0455	Laura Jozwiak, Sr. VP Sales & Client Relations (with copy to CFO) Wheels, Inc. 666 Garland Place Des Plaines, IL 60016 contracts@wheels.com (847) 699-7000

- 7. 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.

8. Insurance Requirements.

a. 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> \$10,000,000 General Aggregate	Contractor must have their policy follow form.

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.
Crime (Fidelity) Insurance	
<u>Minimum Limits:</u> \$1,000,000 Employee Theft Per Loss	Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as Loss Payees.

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 to the extent covered by Contractor's 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).

b. Notwithstanding any other provision to the contrary, the State agrees to assume all liability for injury, death, or property damage occasioned by the operation and possession of each motor vehicle during the term and any renewals thereof of the applicable Lease. The State of Michigan is self-insured under 1984 PA 1984, and as set forth in State of Michigan Administrative Guide to State Government, 0820.01. The State agrees to furnish Contractor with insurance certificates or other acceptable written evidence of the within described insurance coverage.

- 9. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card:

State of MI Admin Fees: <https://www.thepayplace.com/mi/dtmb/adminfee>

State of MI MiDEAL Fees: <https://www.thepayplace.com/mi/dtmb/midealfee>

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.

- 10. Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal. Upon written agreement between the State and Contractor, this contract may also be extended to: (a) other states (including governmental subdivisions and authorized entities) within the State of Michigan.

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 11. 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. As between the Contractor and the State, 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.

- 12. Intellectual Property Rights.** Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Work Product produced as part of the Contract Activities, and all associated intellectual property rights, if any. In general, Work Product constitutes works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Work Product, 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 Work Product, including all intellectual property rights therein. Contractor also irrevocably waives any and all claims Contractor may have now or hereafter have in any jurisdiction to so called "moral rights" or rights of *droit moral* with respect to the Work Product. If Contract Activities includes the purchase or use of software, such purchase, use, or access to Software shall be subject to **Schedules B and C** or **D** of this Contract.

- 13. Subcontracting.** Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any third party to perform Services. The State's approval of any

such Third Party (each approved Third Party, a “**Permitted Subcontractor**”) does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will: (a) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees; (b) name the State a third party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services; (c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and (d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.

14. Staffing. Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits. The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

15. Key Personnel. If, in the sole discretion of the State, Key Personnel are required to complete the Contract Activities, such Key Personnel shall be identified in **Schedule A - Statement of Work**. 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 Program 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.

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 **Section 28**.

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 **Section 28**, Contractor will issue to the State an amount set forth in **Schedule A – Statement of Work** (each, an “**Unauthorized Removal Credit**”).

16. 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. Contractor is responsible for all costs associated with the requested background checks.

17. Assignment. Except as provided in this Section, 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.

a) Neither party, may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party,

except as provided in this Section 17. However: (1) the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor; (2) Contractor may assign the Contract to an Affiliate so long as the Affiliate is adequately capitalized and can provide adequate assurances that the Affiliate can perform the requirements of the Contract and is legally authorized to do business with the State. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

b) The State hereby consents to the assignment by Contractor of all its rights, titles and interest in and to the vehicles and the payments attributable thereto to Wheels LT simultaneously with the execution of the Contract. No such assignee shall be obligated to perform any duty, covenant or condition required to be observed or performed by the Contractor under the Contract. For the avoidance of doubt, the State hereby consents to Wheels LT, in conjunction with the financing of the vehicles leased hereunder, assigning all its rights, titles and interests in, to and under the lease and in, to and under the monthly payments and other sums at any time due or to become due or at any time owing or payable by the State under any provision of the lease with the understanding that Wheels, Inc. shall remain fully responsible for all obligations under the Contract and shall accept all payments due and owing under the lease and Contract. Without limiting the generality of the foregoing, the State agrees that, in the event of any such assignment, the rights of any assignee under the lease and in and to the sums payable by the State under the lease shall not be subject to any abatement whatsoever and the State shall be obligated and continue to pay such sums, and same shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, arising between the Contractor and the State hereunder for any other reason whatsoever. All payments by the State under the Contract shall be made to a single entity. The State's rights to terminate the Contract or the payments on any vehicle pursuant to the terms of the Contract shall remain in full force and effect and shall not be impaired by any assignment. None of the State's rights to possession of or use of a motor vehicle leased in accordance with the terms under this Contract or in any vehicle leased under the Contract may be assigned, subleased, or encumbered by the Contractor for any reason.

c) Other than for assignments addressed above as provided in the foregoing, if the Contractor seeks to assign the Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

- 18. 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.

- 19. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.

- 20. Acceptance.** Unless otherwise provided in Schedule A, Contract Activities and Deliverables are subject to reasonable inspection and testing by the State.

- 21. Delivery.** Contractor must deliver any physical Deliverables F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.

- 22. Risk of Loss and Title.** Upon acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record

and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

23. Reserved.

24. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All amounts billed are due and payable within forty-five (45) days of the State's receipt of the invoice other than specific charges as to which the State has provided Contractor written notice regarding a good faith dispute ("Disputed Amounts") or all amounts other than Disputed Amounts shall be or shall be subject to a late payment fee of 0.75% of the amount billed, retroactive to the date of invoice, for each month or portion of a month in which the amount due remains unpaid. 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. See Attachment 1 to Schedule B for additional pricing and payment terms.

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, provided however that in no event shall the right to set off apply to lease payments due and owing by the State to the Contractor under the Lease.

25. Payment Disputes. The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute, provided that the State: (a) timely renders all payments and amounts that are not in dispute; notifies Contractor of the dispute prior to the due date for payment, specifying in such notice: (i) the amount in dispute; and (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties; (b) works with Contractor in good faith to resolve the dispute promptly; and (c) promptly pays any amount determined to be payable by resolution of the dispute.

Contractor shall not withhold any Contract Activities or fail to perform any obligation hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 25** or any dispute arising therefrom.

26. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in **Schedule A**. Amounts due the State as liquidated damages may be set off against any Fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.

27. Stop Work Order. Except as otherwise provided in this Section, 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. Unless the work covered by the stop work order is subsequently terminated for cause, the State will pay Contractor for reasonable, direct and verifiable costs resulting from the stop work order, and the parties will agree to a mutually acceptable equitable adjustment to applicable Contract Pricing and delivery schedule to the extent the Contractor's costs for, and the Contractor's ability to timely provide, Contract Services are demonstrably impacted as a result of the stop work order. The State will not pay for Contractor's lost profits during a stop work period.

- 28. 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) breaches any of its material duties or obligations; or (d) 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 29**, 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, provided however that in no event shall the right to set off apply to lease payments due and owing by the State to the Contractor. under the Lease. The Contractor must pay all reasonable administrative costs incurred by the State in terminating this Contract for cause.

- 29. Termination for Convenience.** The State may upon thirty (30) days prior written notice to Contractor terminate this Contract in whole or in part without penalty and for any reason, except with respect to, appropriation or budget shortfalls, in which events, termination may be immediate. 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 31, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, for State approved Transition Responsibilities. The State shall be responsible for full payment to Contractor of all amounts billed by third-parties for services performed or initiated prior to termination date, which may be billed subsequent to termination date ("Outstanding Services Billing").

- 30. Effect of Termination.** Upon and after the termination or expiration of this Contract or one or more Statements of Work for any or no reason: (a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 31**; (b) all licenses granted to Contractor in State Data will terminate after all Transition Responsibilities are satisfied. Contractor must promptly return to the State all State Data not required by Contractor for its Transition Responsibilities, if any; (c) Contractor will: (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State's Confidential Information; (ii) permanently erase the State's Confidential Information from its computer systems; and (iii) certify in writing to the State that it has complied with the requirements of this **Section 30** in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.

31. Transition Responsibilities.

- a. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days, unless a different time is required to facilitate the State's choice under Section 31(b), ("**Transition Period**")), provide all reasonable transition assistance requested by the State, to facilitate the State's choice under Section 31(b), and to otherwise allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, as the State may reasonably request, 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: (i) continuing to perform the Contract Activities at the established Contract rates; (ii) taking all reasonable and necessary measures to transition performance of the work, including all applicable

Deliverables, services training, data, reports and other documentation, to the State or the State's designee; (iii) taking all necessary and appropriate steps, or such other action as the State may reasonably 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; and (iv) 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.

- b. If the Contract expires or is terminated for any reason with vehicles under the Lease, the State shall, in its sole discretion, exercise one of the following options with respect to all vehicles under lease at such time: (1) return the vehicles to the Contractor and terminate the lease with respect to such vehicles upon such return, provided however, any such termination shall be in accordance with the terms of the Lease, for such vehicles so terminated; or (2) the State shall in accordance with the terms set forth in the Lease and Attachment 1 to Schedule B, continue to pay Monthly Payments with respect to the vehicles, provided however, such payment obligations shall exclude Contractor fees (but not costs) attributable to maintenance, collision and fuel management services with respect to the vehicles at issue and, at such time as the State chooses to terminate the lease of each such vehicle, settlement shall be in accordance with the terms of Section 3 of the Lease. For the avoidance of doubt, the State shall be responsible for all costs and fees associated with remarketing of vehicles and Outstanding Services Billing whether the State exercises its option under the forgoing clauses (1) or (2).

32. 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, reasonable attorney fees, and expenses, including expenses required to establish the right to indemnification ("Losses"), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents or 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 or 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 or Subcontractors, or by anyone else for whose acts any of them may be liable), provided however, the Contractor shall not be obligated to indemnify the State to the extent any Losses hereunder arise from the negligence or willful misconduct of the State. Notwithstanding any other provision to the contrary, Contractor shall not be liable for the acts or omissions of third-party vendors. 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. Notwithstanding any provision to the contrary, the Contractor's liability under this Section 32, whether in contract or tort or otherwise, shall be limited in the aggregate to a maximum amount equal to two million two hundred thousand dollars (\$2,200,000).

33. 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.

34. Limitation of Liability and Disclaimer of Damages. NEITHER PARTY WILL BE LIABLE, 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 FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. EXCEPT WITH RESPECT TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS AS DESCRIBED IN SECTION 32 AND ITS OBLIGATIONS AS DESCRIBED IN SECTION 37.e, IN NO EVENT WILL CONTRACTOR'S AGGREGATE LIABILITY TO THE STATE 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 TO CONTRACTOR UNDER THIS CONTRACT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENTS GIVING RISE TO SUCH CLAIM.

IN NO EVENT WILL THE STATE'S LIABILITY EXCLUDING AMOUNTS PROPERLY INVOICED AND UNPAID UNDER THIS CONTRACT TO THE CONTRACTOR, 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 TO CONTRACTOR UNDER THIS CONTRACT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENTS GIVING RISE TO SUCH CLAIM.

35. 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, 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.

36. RESERVED

37. State Data. If the Contract Activities includes the hosting of State Data with Contractor or Permitted Subcontractors, Contractor must also comply with **Schedule F – Data Security Requirements** of this Contract

- 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; and (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. 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. For purposes of clarity, Contractor is hereby granted permission to share individuals' names, business addresses and contact information, to the extent it is necessary to share such information with Subcontractors or third-party vendors in the course of performing the Contract Activities. This Section survives the termination of this Contract.

- c. Extraction of State Data. Contractor must, within twenty-five (25) 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 a format mutually agreed upon by the State and the Contractor.
- 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 reasonably required by the State, provided however Contractor will provide all such information that: (i) solely pertains to the State; and (ii) where such information also pertains to other clients of the Contractor, Contractor shall perform an internal investigation and address inquiries of the State pertaining to such investigation; (c) in the case of PII, at the State's sole election, unless otherwise legally required, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) business 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 twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any and all actual and direct costs associated with the occurrence, including but not limited to any reasonable costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all actual and direct 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., with the exception that Contractor may notify other impacted clients and affected individuals thereof, as long as such notification does not name or otherwise identify the State or its affected individuals. The parties agree that any damages relating to a breach of this Section 37 are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract. Notwithstanding any provision to the contrary, in the event of a Loss or Compromise of Data as described in this Section 37.e. , the Contractor's liability whether in contract or tort or otherwise, inclusive of the mitigation and remediation actions described in this section, shall be limited in the aggregate to a maximum amount equal to two million two hundred thousand dollars (\$2,200,000).
- f. State's Governance, Risk and Compliance (GRC) platform, if applicable. If the Contract Activities includes the purchase, use, or access to software, Contractor is required to assist the State with its security accreditation process through the development, completion and periodic update (not more than

once during any twelve (12) month period) of a system security plan using the State's automated GRC platform and implement any reasonable safeguards or remediate any security vulnerabilities as identified by the results of the security accreditation process.

38. 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 with access to the State's Confidential Information, 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.

39. 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 communicated to Contractor 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 a summary of 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, not to exceed once during any twelve (12) month period, except in the case of a reported data loss or material finding in the most recent prior audit. During the providing of the Contract Activities, on an ongoing basis from time to time and with ten (10) business days' 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, or an alternative, mutually agreed-upon remediation or mitigation actions, 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.

40. Reserved

41. Reserved

42. 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.

43. Warranties and Representations. Contractor represents and warrants:(a) Contractor is the owner or licensee of any Software that the State has use of under this Contract as part of Contractor's performance of its obligations

under this Contract. (b) Contractor will perform the Services in a timely, professional, safe manner consistent with standards in the industry; (c) Contractor will meet or exceed the performance and operational standards, and specifications of the Contract; (d) Contractor will not interfere with the State's operations; (e) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (f) the Contract signatory has the authority to enter into this Contract; and (g) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, in all material aspects. 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; (i) 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 (j) 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 28**, Termination for Cause. If Contract Activities includes purchase, use, or access to software, Contractor must agree to additional Warranties and Representations found in **Schedules B or D** of this Contract, as applicable.

- 44. 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.
- 45. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 46. ADA Compliance.** The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. Contractor's Service Software must comply, where relevant, with level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.
- 47. HIPAA Compliance.** The State and Contractor must comply with all applicable obligations under HIPAA and its accompanying regulations, including but not limited to entering into a business associate agreement, if reasonably necessary to keep the State and Contractor in compliance with HIPAA.
- 48. Reserved.**
- 49. Reserved.**
- 50. 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.
- 51. 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.
- 52. 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.

- 53. 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.

- 54. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any act of god or any other act or event or circumstance beyond their reasonable control and without their fault or negligence, including, without limitation, natural disaster, wars, riots, terrorist activities, declared tropical storms, or any measures or actions of any international, national, regional, state or local government authority taken in response to acts of god, natural disasters, wars, riots, terrorist activities, declared tropical storms, epidemics, pandemics or other disease outbreaks, (collectively, a "Force Majeure Event."). Each party will use commercially reasonable efforts to resume performance of their respective obligations under the Contract. Contractor will not be relieved of a breach or delay caused by its Subcontractors, that is not caused by a Force Majeure Event. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

- 55. 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.

- 56. 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.

- 57. Website Incorporation.** Neither party may be bound by any content on the other party's website unless expressly incorporated directly into this Contract.

- 58. 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
Exhibit 1 to Schedule A	Lease
Schedule B	Pricing and Fees
Attachment 1 to Schedule B – Total Cost of Ownership	Pricing details
Schedule C	Data Elements for Billing and Interface Files
Schedule D	NOT USED

Schedule E	Contractor Hosted Software and Services
Exhibit 1 to Schedule E	Support Services and Service Level Agreement for Hosted Services
Schedule F	Data Security Requirements
Exhibit 1 to Schedule F	Contractor's Disaster Recovery Plan
Schedule G (as applicable)	Federal Provisions Addendum

- 59. 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; (b) second, Schedule A – Statement of Work; and (c) third, the Lease as set forth in Exhibit 1 to Schedule A; (d) fourth, Schedules expressly incorporated into this Contract. 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 OR ITS AUTHORIZED USERS 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.
- 60. 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.
- 61. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 62. 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.

STATE OF MICHIGAN

Vehicle Fleet Management

CONTRACT 210000001162 SCHEDULE A - STATEMENT OF WORK CONTRACT ACTIVITIES

BACKGROUND

The Vehicle and Travel Services Division (VTS) of the Office of Support Services (OSS) of the Department of Technology, Management & Budget (DTMB) provides fleet management services for the State's mostly centralized fleet. In addition to its fleet service activities, VTS is also charged by State statute with certain regulatory responsibilities including oversight of agency compliance with fleet-related rules and regulations, implementation of executive directives, and consolidated management reporting. All capital and operating costs borne by VTS in furnishing vehicles and fleet management services to other State agencies are financed through a cost charge-back system. The proceeds of fleet user charges are accounted for in the State's Motor Transport Fund.

State vehicles are operated by 18 agencies along with additional users such as the legislature, judiciary and higher education institutions. The State fleet includes many different types of vehicles including standard sedans, patrol cars, pickup trucks, buses, front-end loaders, heavy trucks, utility carts, and others.

CURRENT FLEET DELIVERY METHODS

Contractor will provide open-ended lease financing for vehicles acquired by the State, vehicle specification services, vehicle price negotiation, vehicle remarketing services, access to a network of commercial maintenance, repair, and upfitting service providers, maintenance and repair authorization services, accident management and subrogation services, Contractor payment services, and management analysis and reporting services.

The State will provide for the licensing of all vehicles. A list of the assigned license plates will be given to the Contractor by the State at their request, post award.

The State may purchase products or services from other State contracts whenever it is in the best interest of the State to do so. For example, the State procures short-term rental vehicles under a separate contract.

The State has established replacement guidelines for light-duty vehicles (sedans, pickup trucks, SUVs, and vans) of 100,000 miles and/or ten years. Mileage is the primary factor that drives vehicle replacement decision making.

VTS remarketed 1081 vehicles in FY 2019. Approximately 90 percent of those vehicles were remarketed by the State of Michigan Surplus Services program, mostly via auctions. The State will continue to remarket vehicles in-house to the extent revenue is maximized in doing so.

VTS operates one vehicle maintenance and upfitting facility in Lansing, and seven motor pools. The State currently performs approximately 10 percent of total fleet maintenance and repair services at this facility.

The State's insurance coverage for a vehicle begins effective when a state employee takes delivery of a vehicle from a drop ship dealer or when the vehicle is delivered to a state facility.

VTS utilizes the *Fleet Focus (version M4)* fleet management information system from Maximus, Inc. as both a fleet maintenance management system to support the Lansing Garage operated by VTS, and to accumulate data on outsourced fleet maintenance and fueling transactions processed via Wheels' Maintenance Assistance Program (MAP) and the use of WEX commercial fuel cards. It also supports the monthly billing of VTS customers via an interface with the State's financial management system. VTS is in the process of converting to *Fleet Focus (version M5)* with an expected go live date in the summer of 2020.

SCOPE

This contract is for the components of a comprehensive fleet management system, including but not limited to:

A. Vehicle Selection, Acquisition and Replacement

- B. Vehicle Financing
- C. Vehicle Remarketing
- D. Vehicle Maintenance and Repair
- E. Vehicle Accident Repair and Claims Management
- F. Commercial Fuel Card (a Deliverable)
- G. Recordkeeping, Data Management and Management Reporting (Custom Reports- a Deliverable)
- H. Billing

1.1 REQUIREMENTS, SERVICES, 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 in this section and that are within the Scope, as set forth above. For the avoidance of doubt, in no event shall any of the following be considered Deliverables: vehicles leased by the State under the lease agreement between State and the Contractor, any source code, executable or design artifact of wheels.com or its related web sites, Wheels mobile applications integrated to wheels.com, or any internal systems used by Wheels in delivering the Services; or any analysis, benchmarks or derived data provided by Contractor using data beyond the scope of Client's fleet data or in combination with Client's fleet data. The parties agree that, other than Custom Reports, no Work Product is contemplated to be provided under this or any SOW. Further, the parties agree that Deliverables contemplated by this SOW are specifically-identified as Deliverables by Contractor for the State in this SOW.

A. Vehicle Selection, Acquisition and Replacement

- 1) The Contractor must process orders for new vehicles. New vehicle orders will be placed with the appropriate automobile manufacturers. Vehicles must be titled to the Contractor. The Contractor may select the ordering dealers; however, all new vehicle deliveries must be credited to Michigan dealers. The Contractor must pass through any federal vehicle credits for alternative energy back to the State.
- 2) **Ordering Process / Order Status**

The FleetView online hosted software shall be used for ordering vehicles. The Contractor shall work with the State to create vehicle templates containing State approved specifications. FleetView is customized to the administrative settings allowed for each user. FleetView provides an Order Status Report that can be run for specific agencies or collectively for all State orders.

Vehicles are ordered from the following Michigan dealerships: Merrill Ford in Okemos, Berger Chevrolet in Grand Rapids, Shaheen Chevrolet in Lansing, Southfield Chrysler/Dodge/Jeep in Southfield, Cueter Chrysler/Jeep in Ypsilanti and Sundance Buick/GMC in St. Johns.
- 3) **Upfitting Management**

The Contractor provides fully integrated ship-thru online ordering of vehicles with upfitting using FleetView's automated process. This process provides the location of each vehicle at each stage of production and delivery. The FleetView ordering technology automatically manages any upfit vehicle through a single upfitter, or through multiple body companies.
- 4) **Incentive / Pricing Management**

The Contractor inputs all the details of the State's manufacturer incentive programs into FleetView, in order to track every vehicle to ensure all available incentives are received. The Contractor audits all invoices to ensure that the State receives all off-invoice incentives to which the State is entitled; for incentives that must be applied for, the Contractor will do so on the State's behalf.

FleetView's vehicle configurator automatically audits every factory invoice to ensure that all items are priced correctly. In the case of an incorrect billing, the Contractor pursues correction to ensure that the State receives correct pricing for every vehicle ordered.
- 5) The Contractor must have the ability to purchase and/or lease used vehicles and must make such vehicles available to the State for purchase and/or lease. Used vehicles are required to meet the State's seasonal requirements. The majority of seasonal requests are for sedans and ½ ton pickup trucks.
- 6) The Contractor must have the ability to obtain new vehicles as needed after the manufacturer build-out period has ended and must make such vehicles available to the State for purchase and/or lease. If needed, the Contractor shall provide vehicles after the manufacturer build-out period via:

- **Contractor Pool**
- **Manufacturer E-Pools**
- **Interim Rentals**

Manufacturer e-pool vehicles and Contractor pool vehicles are priced the same as factory orders from an acquisition cost formula perspective. Differences in funding spread for Contractor pool vehicles are specified in **Attachment 1 to Schedule B1**. Standard fleet pricing is passed through to the State for rental vehicles.

- 7) The Contractor must provide an annual selection process, focusing on matching available vehicle models to specific vehicle functional/application needs provided by the State. The Contractor must also provide written recommendations to the State on which models best meet each functional requirement within 30 days from the date that the State provides the functional requirements.
- 8) The Contractor must be able to occasionally purchase vehicles on behalf of the State of Michigan. This situation generally occurs with large, specialty vehicles.

Pricing is outlined in **Attachment 1 to Schedule B1**.

- 9) When requested by the State, the Contractor must prepare a lifecycle cost analyses of all vehicle models considered for inclusion in the State's annual selector list. The Contractor must submit their analysis results and recommendations to the State in a Microsoft Excel spreadsheet within 15 business days from the date requested by the State. The Excel worksheets must identify all data elements and reveal all formulas used in developing lifecycle reports and must be presented in a manner which allows further modeling by the State.
- 10) The Contractor must provide upon request vehicle safety statistics such as crash test results and accident repair cost ratings in order to compare the safety of various makes and models of vehicles. The Contractor must submit statistics to the State at the same time that lifecycle cost analysis results are provided.
- 11) The State requires upfitting for certain vehicles. Detailed specifications for those vehicles are established each model year. The Contractor must provide vehicle up-fitting services as defined by the State. The State must approve, in writing, the selected Contractor or Contractor(s) for upfitting services.
- 12) The Contractor must furnish a systematic, online vehicle order process that accommodates orders for all vehicle types and displays vehicle upfitting specifications in addition to standard and optional OEM vehicle equipment. The system must show the vehicle's status in each stage of the order process. Once an order is transmitted, status is updated throughout the production process. An automated process alerts VTS of impending delivery of a vehicle at least ten days in advance. This allows VTS to prepare documents to either send to the dealer or have available when the vehicle arrives.
- 13) The Contractor must process the State's current model year and subsequent year vehicle orders. The Contractor must provide a computerized order process, recommendations on specifications provided by the State and a delivery plan consistent with the State's needs.

B. Vehicle Financing

- 1) The Contractor shall provide vehicle financing for the State's leased fleet, pursuant to Attachment 1 to Schedule B. The following interest rate assumptions must be used:
 - a) Interest rates for new vehicles must be fixed for the life of each individual vehicle lease and indexed to the 2-year U.S. Treasury Bill rates in effect on the date that the State receives notification of confirmation of delivery.
 - b) Interest rates for used vehicles must be fixed for the life of each individual vehicle lease and indexed to the 2-year U.S. Treasury Bill rates in effect on the date that the State receives notification of confirmation of delivery.

- 2) The Contractor will offer the purchase of various lease terms which must include 36-, 42-, 48-, 50-, 60-, 72-, and 84- month terms

C. Vehicle Remarketing

- 1) The Contractor must provide for the remarketing of vehicles to maximize residual values, including the ability to reach markets for specialty vehicles. The State will define and authorize reconditioning of vehicles prior to remarketing.
- 2) The Contractor must accommodate the State's desire to remarket State vehicles through other channels of its choosing, such as State Surplus auctions.
- 3) The Contractor must offer multiple alternatives for vehicle remarketing including online, public and dealer auctions and wholesalers. The State of Michigan Surplus Services Program is the only public remarketing source.
- 4) The Contractor must provide a process for refunding proceeds from remarketed vehicles to the State. The Contractor's refunding process is as follows: settlement with the State occurs as part of the monthly invoicing process, with the credit or debit appearing on the next available billing after the sale takes place. For vehicles sold at State Surplus auctions, the State sends the proceeds to the Contractor via wire transfer along with the sale paperwork. The Contractor then posts the sale amounts in their system, and the vehicles are marked as sold. In both cases, vehicles are promptly removed from billing and the State avoids any unnecessary lease costs.
- 5) The Contractor must dispose of State vehicles at the State's direction that are to be salvaged via outlets that provide the maximum resale value for the State. The Contractor's disposal process is as follows: The Contractor sells salvaged vehicles for the State through two different salvage auction companies. Once a vehicle is sold, the funds are sent to the Contractor via ACH along with all documentation on sale of the vehicle. Through the disposal invoice process, the State is either credited or debited based on the difference between book value and the selling price of the vehicle. All documentation is retained by the Contractor and is available for auditing purposes.

D. Vehicle Maintenance and Repair

- 1) The Contractor must provide a network of vehicle maintenance and repair vendors located throughout Michigan to service all VTS managed vehicles. The Contractor must have the ability to make payments to any vehicle maintenance facility.
- 2) The Contractor must provide a process for adding vendors to their maintenance and repair network. The VTS garage in Lansing must be added to the contractor's maintenance and repair network. In addition, the State may require other vendors to be added to this network.
- 3) The Contractor must provide a process for authorizing the performance of vehicle maintenance and repair services that includes consultation of individual vehicle maintenance and repair histories to ensure that proposed services are needed and will be performed cost effectively. The State will specify spending thresholds for authorization of specific services. The Contractor must obtain prior authorization from Vehicle and Travel Services at these thresholds:
 - Mechanical repair over \$1200
 - Collision repair over \$2500
 - Passenger vehicles over 100,000 miles
 - Trucks over 125,000 miles
 - Passenger vehicles over 72 months in service
 - Trucks over 96 months in service
 - Other factors may be required.

MAP provides a Driver Passport for each vehicle that is formatted to fit in the glove compartment (and is also available in electronic format through a Mobile Assistant app). The manual contains a maintenance schedule that advises drivers when to perform routine vehicle maintenance. Drivers do not have to call for approval if scheduled maintenance is being performed on their vehicle at a National Account shop as set forth in the Driver Passport. They schedule an appointment and present their Maintenance Service Chart (included in the Driver Passport) to the service technician. The State's MAP parameters allow drivers to authorize repairs for preventive maintenance up to \$75.00 and MAP advisors to authorize repairs up to \$1,200.00. Repairs above \$1,200.00 are referred to the State's designated contacts for approval. These parameters are subject to change as determined by the State.

- 4) The Contractor must provide a centralized maintenance and repair call center and authorization system that is accessible 24x7 via a toll-free telephone number. The call center must be located in the United States.

Toll Free Number: (800) 937-8149

E. Vehicle Accident Repair and Claims Management

- 1) The Contractor must provide a network of vehicle body repair vendors located throughout Michigan to service all VTS managed vehicles. The Contractor must have the ability to make payments to any vehicle maintenance facility.
- 2) The Contractor must furnish a process for adding vendors to the body repair vendor listing. The State may require certain vendors to be added to the Contractor's network.
- 3) The Contractor must provide a process for authorizing the performance of collision repair services that ensures that such services are provided cost effectively.
The Contractor's process includes the following: All authorizations are handled in accordance with the State's collision management profile. For each repair event, the Contractor's collision repair specialist sets up an electronic accident file and obtains an estimate. The estimate is compared against established industry price guidelines to ensure the shop's estimate is appropriate for the work required, and negotiating may be necessary. Repairs are usually authorized within 24 hours, and the State is contacted if the amount exceeds \$2,500.00. The Contractor then issues a purchase order, to begin the repair process. In addition, cost management for accidents is implemented by replacing the vehicle instead of repairing it, when warranted.
- 4) The Contractor must develop and implement a plan, in consultation with the State, for managing collision repair activities with a goal to minimize service costs and maximize service quality.
- 5) The Contractor must provide a centralized maintenance and repair call center and authorization system that is accessible 24x7 via a toll-free telephone number. The call center must be located in the United States.

Toll Free Number: (800) 937-8149

- 6) The Contractor must provide accident reports to the State via electronic format within one business day of taking the report from the driver. Accident reports must include a copy of the police accident report, if available.
- 7) The Contractor must ensure statewide availability of professional collision damage appraisal providers.
- 8) The Contractor must manage subrogation for the State so that the maximum amount of recoveries permitted under Michigan's no-fault insurance laws are realized, including property damage, rental car costs and diminished value of the State's vehicle.
- 9) The State of Michigan is self-insured. The State's insurance coverage for a vehicle becomes effective when a state employee takes delivery of a vehicle from a drop ship dealer or when the vehicle is delivered to a state facility.
- 10) The Contractor must assist the State as necessary with safety training for drivers.

F. Commercial Fuel Card- a Deliverable

- 1) The Contractor must provide a standard size plastic commercial fuel card including a magnetic strip on the reverse side to be assigned to each specific vehicle assigned to various State agencies and departments. The Contractor must provide a commercial fuel card with a chip once gas stations are required to install chip readers at pumps. The card format must be distinctive so that it readily identifies the cardholder as an employee of the State of Michigan except as noted in #2 below and includes the following information:
 - a) State of Michigan.
 - b) Phrase: For Official Use Only – Tax-Exempt – NO. A154961.
 - c) Vehicle ID (assigned vehicle number and VIN).
 - d) The vendor's toll-free help line telephone number printed on the reverse side of the card.
- 2) The Contractor must provide fuel cards that meet the unique needs of undercover law enforcement operations. These cards are not identified as a State card and may require a separate account number with a fictitious company name.
- 3) The Contractor must provide and manage up to 15,000 fuel cards and allow and manage multiple accounts or sub-accounts.
- 4) The Contractor must provide a system to manage up to 60,000, six-digit personal identification (PIN) codes that can be associated with any fuel card. The State currently uses the last six digits of the employee identification number as the PIN and provides this data to the Contractor. The Contractor must also provide the ability to update PIN codes on a weekly basis.
- 5) The Contractor will mail replacement fuel cards when lost or stolen within three business days of the card(s) being reported as lost or stolen.
- 6) The Contractor must ensure statewide availability, which includes the Upper and Lower Peninsula, of fuel locations which accepts the Contractor's fuel card.
- 7) The Contractor must implement transaction controls and/or limits for each fuel card. The minimum controls are listed below. The State may require additional controls for fuel card transactions.
 - a. Maximum dollar transaction
 - b. Maximum dollar amount per fuel transaction
 - c. Number of transactions in a period (e.g. day, week, month)
 - d. Transaction total purchases in a period (e.g. day, week, month)
 - e. Monthly credit limits
 - f. Prevent cash advances
 - g. Restrict certain product types to specific dollar limits
 - h. Restrict certain fuel providers or facilities.
- 8) The Contractor must have mechanisms in place to control fraudulent use of fuel cards by employees and external parties.
- 9) The Contractor must respond to customer service assistance calls on a 24/7 basis. Calls are handled by the Contractor during business hours (8:30 am to 6:00 pm Eastern Time) After-hours called are handled directly by the Fuel Card provider.
- 10)
 - a) The Contractor must maintain a process for enrolling additional fuel locations.
 - b) The Contractor shall resolve product coding issues for fuel transactions.
- 11) The Contractor must prevent further and future use of any individual card (card lockout) promptly upon notification by the driver or the State.

- 12) The Contractor must allow retail fuel purchases for alternative fuels (propane, compressed natural gas, E85, biodiesel) used by the State.
- 13) The Contractor must post Level III fuel transactions data to the online system within three days from the date of posting the fuel purchase.
- 14) The Contractor must establish and maintain a fuel card program with cards delivered to designated State locations within 30 days after the contract is awarded. The Contractor will also provide processes for detecting and correcting billing errors, resolving billing disputes, and notifying the State about these errors and/or disputes. The State requires that all errors be corrected prior to the next billing period. The Contractor shall have a billing process for fuel transactions that screens for fraud or misuse and is efficient in settling disputes.
- 15) The Contractor must provide replacement of expired fuel cards within 60 calendar days of expiration. The Contractor must deliver the cards to a variety of statewide locations as defined by the State.
- 16) The State expects to increase the number of electric vehicles in its fleet. The Contractor must provide a mechanism to obtain vehicle charging at commercial electric vehicle charging stations.

G. Recordkeeping, Data Management and Management Reporting

- 1) The Contractor is fully responsible to manage and administer its **Contractor-hosted system**. In that regard, the Contractor must supply software maintenance and support services that provide corrections and changes for any defects, errors, or malfunctions in the Contractor software and that also provide new versions, updates and/or enhancements to current versions of the Contractor-hosted software at no additional cost.

The Contractor must possess the capability to create custom reports as defined by the State, and provide such custom reports to the State upon request at no cost to the State ("Custom Reports").

The Contractor must provide a real-time, browser-based client interface for account specific access via the internet with the capability to record all input and output data associated with the functional requirements described earlier. The Contractor must provide access to the system with access points by various users defined by the State. The system must have defined management and ad hoc reporting capability.

The system must accommodate certain data elements, the attributes of which are defined by the State.

State owns all State-specific data associated with its fleet and fleet program. This ownership shall not include any third-party or shared data used in support of managing or operating the fleet program and not exclusively related to a specific State fleet vehicle or driver, set of State fleet vehicles and/or State drivers). Notwithstanding this ownership, State grants to Contractor perpetual and irrevocable rights to use this data in the delivery of services to State, and without restriction, in aggregate with other clients' data as Contractor may see fit. Further, Contractor retains all intellectual property rights and trademarks in the logical or physical structure of the data, as well as the design of any reports or other output of the data. Custom Reports provided by Contractor to the State are a Deliverable.

H. Billing

- 1) The Contractor must provide an invoicing system that is flexible enough to provide:
 - a) Unit specific billing with summary level data based on the State's accounting and/or vehicle type structure.
 - b) Online update of key accounting, driver and mileage data via secured access to individual data fields.
 - c) Auditing of actual vendor costs incurred at the transaction level of detail.
 - d) The ability to add additional data elements if required by the state.

- 2) The Contractor shall invoice the State on a monthly basis. The Contractor shall also provide processes for detecting and correcting billing errors, resolving billing disputes, and notifying the State about these errors and/or disputes. The State requires that all errors be corrected prior to the next billing period.

1.2. Warranties

As part of the Contractor's MAP service, there is a dedicated Warranty Administration department that works to ensure that any applicable vehicle warranty programs are honored as appropriate when services/repairs are performed. Warranty Specialists monitor items under warranty so they can identify those items up front, rather than trying to recover warranty dollars later. We also monitor repeat problems and seek out-of-warranty (i.e. goodwill) dollars when appropriate. In addition, if repeat problems occur that are not covered by the terms of a manufacturer's warranty, or the warranty has expired, the Contractor may negotiate with the manufacturer when appropriate. Reporting on warranty performance is provided online via FleetView for review.

The Contractor's warranty administration services help ensure that any warranties made available by the manufacturers are honored. The Contractor does not provide vehicle warranties beyond those offered by the manufacturers.

Contractor shall not be liable for any loss of business or profit or other loss, liability or damages caused by any interruption of the service specified in this Agreement to be provided by Contractor, or for any other acts or omissions of Contractor (other than acts or omissions constituting gross negligence or willful misconduct on the part of Contractor). Contractor shall be responsible for obtaining and delivering to the State the new and used vehicles, but Contractor shall not be liable for any failure to deliver vehicles under this Agreement due to strike or other causes beyond the control of Contractor in the exercise of good faith. Further, Contractor, not being the manufacturer of the vehicles, nor the manufacturer's agent, dealer or representative, makes no express or implied representation or warranty of any kind whatsoever with respect to any vehicle, including, but not limited to, any representation or warranty with respect to: the merchantability of any vehicle or its fitness for a particular purpose; the design, safety or condition of any vehicle; the quality or capacity of any vehicle; the workmanship in any vehicle; compliance of any vehicle with the requirements of any law, rule, specification, warranty or contract pertaining thereto; or any defects.

1.3. Recall Requirements and Procedures

A FleetView Alert notifies the State fleet administrators of new recall campaigns for applicable vehicles and calls attention to non-compliant drivers. An on-demand report is available which summarizes recall activity and status by manufacturer and/or campaign.

For clients who utilize the DriverView tool, open recall notifications are posted in DriverView's Reminder section. In this section, drivers can enter the service completion date and the name of the dealership that completed the work.

If a manufacturer issues a "stop drive" recall, the Contractor will send an e-mail communication to affected drivers to facilitate awareness.

The Contractor will assist drivers with scheduling recall-related repairs/services at an authorized repair facility.

The Contractor's Driver Services Representatives and MAP Associates have visibility to open recall activity, allowing them to proactively remind drivers of open recall campaigns when they call into the Contractors help line.

1.5. Incentives

- a) Credits for component pricing made available by the manufacturer, as applicable, for factory orders (these are represented in Discount **fields 2-5 in Schedule B1**).
- b) Maintenance national account rebate of 2%.
- c) Fuel rebate of .90%
- d) Rebate of 2.00% on billing for collision repairs performed at National Account shops.
- e) Glass discount of 25% off NAGS pricing.

1.6 Specific Standards

- a) **IT Policies, Standards and Procedures (PSP)**

Refer to **Schedule F – Data Security Requirements**, section 3.

b) Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

c) SOM Digital Standards

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at www.michigan.gov/standards

d) Mobile Responsiveness

The Contractor's Solution must utilize responsive design practices to ensure an application is accessible via a mobile device. Contractors must provide a list of all mobile devices that are compatible with the Solution. Additionally, the Contractor must provide list of features that can be performed via a mobile device.

The Contractor provides a native app version of FleetView for both Android and Apple devices that allows a fleet manager to do the most common actions on-the-go, including:

- i. searching for drivers/vehicles and viewing their details.
- ii. Approving or denying maintenance and collision repairs.
- iii. Viewing alerts on fleet activity.

A Mobile Assistant is available for drivers which is a native iOS or Android app. The app features extensive existing functionality and is regularly and actively being enhanced with new features. Current/upcoming available features associated with enrolled services and programs include the following, as applicable:

- i. Face ID / Touch ID Biometric login.
- ii. Driver "Action Items" checklist and reminders.
- iii. "Glovebox" of key documents available to the driver.
- iv. Vehicle order status updates along with map and driving directions to the dealership.
- v. Advanced mileage entry with odometer capture via camera.
- vi. GPS-assisted trip log entry (with available AutoLog GPS-captured business mileage), plus trip categorization assistance.
- vii. Fuel location look-up with price comparison capabilities to help drivers identify the lowest-cost fuel stations in their areas.
- viii. Fuel usage insights and secure PIN lookup.
- ix. Driver maintenance Passport look-up, with maintenance schedule/authorization functionality.
- x. Search for maintenance vendor locations based on type of need (tires, general maintenance, etc.) and State-specific maintenance network requirements.
- xi. Multiple "pushed" notifications including recall alerts at the phone operating system level which notifies drivers of events even if the app is not opened.
- xii. Self-Service requests for roadside assistance (with GPS tracking and ETA for responding unit where available), maintenance, glass repairs, and rental requests and Contractor Customer Support Center integration.
- xiii. Photo gallery for anytime vehicle condition capture.
- xiv. Insurance card access.
- xv. Registration detail.
- xvi. Driver performance feedback / driver record score.
- xvii. Violations payment.

e) ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. The State is requiring that Bidder's proposed Solution, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Bidder may consider, where relevant, the W3C's Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT) for non-web software and content. The State may require that Bidder complete a Voluntary

Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or other comparable document for the proposed Solution. http://www.michigan.gov/documents/dmb/1650.00_209567_7.pdf?20151026134621

1.7 User Type and Capacity

Type of User	Access Type	Number of Users	Number of Concurrent Users
Administrator	Read/Write	35	35
Read Only	Read Only	500	500

Bidder must be able to meet the expected number of concurrent Users. Bidder must explain how it will be able to support the expected number of concurrent Users. Bidder must also explain whether the Solution can scale up or down without affecting performance.

Bidder must provide details regarding latency response time for (i.e., Generate Page Load, standardized reporting, ad hoc reporting). The Bidder must identify what network connectivity or equipment will the State be required to have to meet the expected latency response time.

1.8 End-User Operating Environment

The SOM environment is X86 VMware, IBM Power VM and Oracle VM, with supporting enterprise storage monitoring and management.

The software must run under commonly used web browsers. At a minimum the software must support Internet Explorer v11 or higher, or Edge, Chrome v71 or higher, Firefox v62 or higher, and Safari v12.

The Contractor must support the current and future State standard environment at no additional cost to the State.

The Contractor provides both web and mobile applications for optional use. All web applications are certified on the two most recent versions of common browser and O/S combinations including Internet Explorer v11 or higher, or Edge, Chrome v71 or higher, Firefox v62 or higher, and Safari v12 or higher for iOS operating systems. Mobile apps are certified to run on (at least) the two most current version of iOS and Android, and are tested on a wide variety of device brands and form-factors.

1.9 Software

This Contract provides "FleetView" a client-facing online management portal via browser-based web applications. FleetView can be used on all major smartphone/tablet (and desktop) browsers, including iOS, Android, Windows, MacOS, Chrome, etc. All data access is filtered by password-protected user privileges, and the Contractor deploys several different types of transmission technology and data security. The Contractor regularly performs system maintenance at scheduled maintenance periods and deploys software updates at no charge to the State.

FleetView offers ordering/transaction controls, data review/metric dashboarding capabilities, on-demand reporting repositories and industry-leading actionable analytics, including the following available tools:

- a) Secure ordering and order tracking tools that leverage electronic links with manufacturers, user-specific template structures and system-driven audits.
- b) Secure data integrations with vendors throughout the supply chain.
- c) Customizable landing page dashboard tiles for on-the-spot assessment of key metrics, with extensive drilldown capabilities and dozens of standard on-demand reports (many of which can be scheduled to be run automatically at desired intervals) for transaction-level analysis.
- d) Client-defined fields that may be used to input whatever information the State chooses (these fields may be included in custom reports and queried, and FleetView also includes a Notes field that allows more detailed text entries for each vehicle).
- e) Branch reporting that enables you to review and act upon key reporting details at the branch level.
- f) Extensive inventory tracking reports and functionality.
- g) Various digital document management/ and transaction execution functionality/controls, policy posting functions and driver communication resources.
- h) Selection Modeler for online selector optimization and Advanced Analytics for industry-leading data analysis and planning.

- i) Driver Performance dashboard that pools collision, MVR, safety training and other applicable data together as applicable to help you easily assess driver performance and risk.
- j) Online approval tools to review/approve events like repairs, maintenance, and odometer disclosures, as well as online invoicing and billing assessment reports.
- k) A native app version of FleetView for both Android and Apple devices that allows a fleet manager to do the most common actions on-the-go, including: searching for drivers/vehicles and viewing their details, approving or denying maintenance and collision repairs, and viewing alerts on fleet activity is available.

All client data on the FleetView system is updated immediately upon receipt/validation and is then reviewable on a real-time basis. The timeliness and frequency of data exchange may vary across services based on the availability and types of data exchanges provided by vendors. The Contractor supports all the State's needs for billing and interface files. Efforts to migrate to the State's new M5 system for billing and asset control has been completed.

1.10 Hosting

Bidder must maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 24 hours, and a Recovery Time Objective (RTO) of 24 hours.

1.11 Secure Web Application Standard

Contractor's solution must meet the State's Secure Application Development Standards as mandated by the State.

Secure Application Development Life Cycle (SADLC)

Contractor is required to meet the States Secure Application Development Life Cycle requirements that include:

Security Accreditation

Contractor is required to complete the State Security Accreditation process for the solution.

Application Scanning

On-Premise solutions

The State may scan the application using its application scanning tools. Contractor will need to provide the resources, at its sole expense, to complete any analysis remediation and validation required by the results of the scan.

Externally hosted solutions

Contractor is required to grant the right to the State to scan either the application code or a deployed version of the solution; or in lieu of the State performing a scan, Contractor will provide the State a vulnerabilities assessment after Contractor has used a State approved application scanning tool. These scans must be completed and provided to the State on a regular basis or at least for each major release.

For COTS or Contractor owned applications, Contractor, at its sole expense, must provide resources to complete the scanning and to complete the analysis, remediation and validation of vulnerabilities identified by the scan as required by the State Secure Web Application Standards.

Types of scanning and remediation may include the following types of scans and activities

- Dynamic Scanning for vulnerabilities, analysis, remediation and validation
- Static Scanning for vulnerabilities, analysis, remediation and validation
- Third Party and/or Open Source Scanning for vulnerabilities, analysis, remediation and validation

Infrastructure Scanning

On-Premise solutions

The State may scan the application using its infrastructure scanning tools and remediate infrastructure vulnerabilities internally.

Externally hosted solutions

A Contractor providing Hosted Services must scan the infrastructure at least once every 30 days and provide the scan's assessment to the State in a format that can be uploaded by the State and used to track the remediation.

2.1. Delivery

Contractor will work to ensure vehicle orders are quickly placed, accurately built, and continuously tracked. Delivery will be made at specified location(s). This timeframe does not include manufacturer delays, or other delays beyond the Contractor's control which may impact delivery lead times.

2.2. Training

The Contractor must provide training on its system for up to six State employees from various areas of services on bidder processes, information systems, and other pertinent requirements for effective communication between the bidder and State personnel. If travel is required, the expenses for transportation and lodging must be the responsibility of the bidder and meals and incidentals must be the responsibility of the State.

Training for State employees Includes:

- **Online Tools**
- **Fuel card**
- **Pursuit Vehicle Maintenance**
- **Maintenance Compliance Reporting**

2.3. 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.

3. Staffing

3.1. Contractor Representative

The Contractor must appoint two (2) individuals, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor, when feasible will notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

Jack Leffler (Asst. VP, Client Relations)
666 Garland Place
Des Plaines, IL 60016
jleffler@wheels.com
(847) 544-4040

Tim Harrison (Fleet Consulting Manager)
666 Garland Place
Des Plaines, IL 60016
tharrison@wheels.com
(847) 544-4286

3.2 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:
<i>Yvon Dufour</i> 525 W. Allegan, Constitution Hall, 1 st Floor NE Lansing, MI 48933 dufoury@michigan.gov (517) 249-0455	Jack Leffler (Asst. VP, Client Relations) 666 Garland Place Des Plaines, IL 60016 jleffler@wheels.com (847) 544-4040

3.3 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:
Roy Cischke 6951 Crouner Dr. Dimondale, MI, 48821 cischker@michigan.gov 517-908-6614	Tim Harrison (Fleet Consulting Manager) 666 Garland Place Des Plaines, IL 60016 tharrison@wheels.com (847) 544-4286

3.4. Key Personnel

The Contractor must appoint key personnel individuals 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 24 hours.

Suresh Rajapakse - Executive Advocate

Wheels’ Vice President of Account Management. Works directly with the State and members of the Wheels Account Team listed below to oversee project progress, participate in business reviews and provide advanced layers of executive oversight and advocacy.

Jack Leffler - Client Relations Manager

Responsible for State’s relationship with Wheels at the corporate level, acting as a liaison to Wheels executive staff, conducting pricing reviews and facilitating contract negotiations.

Tim Harrison - Fleet Consulting Manager

Designated point of contact for strategic consultation, custom projects and performance reporting. Works with fleet leadership to learn about existing and emerging program needs/goals and then develops business plans and solutions to deliver on those goals. Also works closely with Wheels strategic Client Analytics group of data miners who scrutinize State’s data to look for trends and opportunities in the program, while benchmarking against best-in-class and comparable fleets and handling special reporting requests.

Denise Claudy - Account Executive

Designated point of contact for day-to-day administrative activities, managing transactions, answering questions, escalating issues, etc.

Frank Kucera - Truck Consultant

Assigned to the State’s account to support upfitted vehicle needs throughout the upfitting process and create an overall truck strategy.

3.5. Non-Key Personnel

The Contractor, when feasible, will notify the Contract Administrator at least 10 calendar days before removing or assigning non-key personnel.

3.6. Organizational Chart

Provide an overall organizational chart that details staff members, by name and title, and subcontractors.

3.7. 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 weekday hours of 8 am to 5 pm Eastern with service hours on weekends and holidays as well.

Toll Free Number: (800) 937-8149

The number indicated above is the number the State's drivers call to access the Contractor's Driver Services Center, which provides 24/7/365 in-house, live-associate support for matters like roadside assistance, rental procurement, accident reporting and repair approvals. For other matters, Driver Services Center and certain other frontline call centers are open weekdays from 7:00 a.m. to 9:00 p.m. Eastern Time, with service hours on weekends and holidays.

3.8. Technical Support, Repairs and Maintenance

The Contractor must specify its toll-free number for the State to make contact with the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 8 am to 5 pm Eastern.

Toll free number: (800) 937-8149

Bidder must review the State's standard Contract Hosted Software and Services attached as to **Schedule E**. Bidder must note any exceptions to the SLA by redlining **Exhibit 1 to Schedule E – Service Level Agreement**.

3.9. 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.

3.10. Security

The Contractor will be subject the following security procedures:

Data Security requirements set forth in **Schedule F – Data Security Requirements**.

4. Pricing

4.1. Price Term

The terms of the Contractor's fees agreed upon as of the Effective Date of the Contract will continue for the Term of the contract, barring any major industry changes beyond Contractor's control, including, without limitation, material disruptions to the general credit market/consumer price indexes, changes to OEM programs or other significant events that may necessitate the revisiting of certain components of Contractor's pricing structure during that time; provided, however, any such pricing structure changes must be mutually agreed upon by the Parties pursuant Section 5 of the Contract- "Change Control Process", working in good faith. Contractor will provide notice which shall include the supporting reasons for any pricing changes.

5. Ordering

5.1. Authorizing Document

The appropriate authorizing document for the Contract will be a vehicle order submitted in FleetView. On occasion, custom orders shall be submitted via EVO – Electronic Vehicle Order.

5.2 Order Verification

The Contractor must have internal controls, approved by Central Procurement Services, to verify abnormal orders and to ensure that only authorized individuals place orders.

6. Delivery

Delivery charges should be included in the cost of the vehicle. For vehicles delivered to VTS, whether at the Secondary Complex in Dimondale, MI, or otherwise, delivery must be made between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday ONLY, excluding State Holidays. Contractor shall

contact the ordering agency 48 hours prior to the scheduled delivery time and date, to obtain confirmation of staff availability.

For vehicles that are upfit, are manufactured by the OEM, and delivered to the upfitter where upfitting is completed, a "ship-through" process is used. The vehicle is subsequently returned to the manufacturer transportation for delivery to the dealer/VTs.

For Trucks that are upfit, are manufactured by the OEM, and delivered to the upfitter where upfitting is completed, a "ship-to" process is used. The truck is subsequently delivered to the dealer/VTs.

Exceptions mutually agreed upon by the Contractor and the State, to the delivery process indicated above, may be required.

7. Acceptance

7.1. Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the vehicle: Final acceptance shall be when a state employee takes delivery of a vehicle from a drop ship dealer or when the vehicle is delivered to a state facility.

See **Schedule E**.

8. Invoice and Payment

8.1. Invoice Requirements

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.

8.2. Payment Methods

If applicable, the State will make payment for Contract Activities by EFT.

Monthly Payment obligations commence on the first day of the month following the month of Delivery.

8.3. Pro-ration

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

No service fees are charged for any partial month at the beginning or end of a vehicle's lease term. The State WILL NOT INCUR ANY SERVICE FEES for services that are to be paid monthly during the interim period between the date of *Delivery* and the date *Monthly Payment* obligations begin for the lease. The State will NOT INCUR ANY SERVICE FEES for services that are to be paid monthly during the interim period between the date *Monthly Payment* obligations end and the date of *Termination*.

9. Service Level Credits

- a) Standard Reports shall be provided upon request. If a requested standard report is not provided within two (2) business days, the Contractor shall provide a service level credit of \$300 off Contractor's next invoice to the State. For each business day beyond three (3) that a standard report is provided, the Contractor will provide an additional credit of \$100 per day. The State must notify the Contractor of a delayed report within 5 business days of the occurrence in order to qualify for a service level credit. Standard Reports are defined as pre-established reports that can be run out of FleetView without any adjustments.
- b) The Contractor must possess the capability to create custom reports as defined by the State, and provide such custom reports to the State upon request at no cost to the State. All custom reports that can be configured within Contractor's Custom Query Tool will be provided within ten (10) business days. Should these reports be delivered more than ten (10) business days after requested by the State, the Contractor shall provide a service level credit of \$300 off Contractor's next invoice to the State. For each business day beyond eleven (11) that a custom report is provided, the Contractor will provide an additional credit of \$100 per day. The State must notify the Contractor of a delayed report within 5 business days of the occurrence in order to qualify for a service level credit.

The service level credits noted above shall not apply to any report the provision of which was delayed due to a Force Majeure Event. The annual total amount of all penalties paid hereunder shall not exceed \$10,000.

EXHIBIT 1 TO SCHEDULE A

LEASE

As part of the Contract, with respect to each vehicle leased, Contractor and the the State agree as follows:

1. **POSSESSION.** The State hereby leases one motor vehicle for delivery as specified by the State and other motor vehicles as may hereafter be ordered by the State and accepted by the State. The Contractor hereby agrees to deliver to the State the motor vehicles described herein, with the State to have possession of and right to use said motor vehicles in accordance with the terms of the Contract, including this Lease. For each vehicle delivered to the State, Contractor shall make available documentation describing in detail the motor vehicle and equipment delivered, and the parties hereto agree that all the terms and provisions of this Lease shall apply and extend to each motor vehicle delivered on such documentation, in the same manner as if said motor vehicle were herein specifically described.
2. **STATE'S PAYMENTS.** Amounts due under this Lease are billed monthly, in accordance with Schedule B and Attachment 1 to Schedule B.
3. **STATE ACCOUNT.** The State has the option to remarket vehicles via auction through the State Surplus Services Program in accordance with the Statement of Work. If the State chooses not to remarket a leased vehicle, Contractor, upon receipt of said leased motor vehicle from the State, will provide Vehicle Remarketing as set forth in the Statement of Work, including Section 1.1 C- Vehicle Remarketing and sell such vehicle on the best terms available for cash, in the discretion of Contractor. The "*Net Proceeds*" shall be either (i) the net amount received by the Contractor from the sale of the motor vehicle after deducting any expenses and charges incurred from the time of delivery of the motor vehicle to the Contractor to the final completion of the sale thereof; or (ii) the auction proceeds received by the State and sent to the Contractor. If the *Net Proceeds* plus the amount accrued for the *Reserve* for said motor vehicle (the *Total Recovery*) is in excess of the *Stipulated Cost* of the motor vehicle, then the amount of such excess shall be promptly credited to the State by the Contractor as set forth in the Statement of Work. If the *Total Recovery* is less than the *Stipulated Cost* of the motor vehicle, then the State shall promptly pay such deficiency to the Contractor as set forth in the Statement of Work; provided that in the event of any such sale the Contractor shall guaranty to the State that the *Net Proceeds* shall at least equal (a) the following percentages of the fair value of the vehicle as of the beginning of the 12-month period during which the date of termination occurs:

<i>Period</i>	<i>Percentage</i>
Initial 12-month period of lease	20%
Each subsequent 12-month period	30%

less, in any case, (b) the amount of any loss or damage to be insured or borne by the State under Section 5, 7, or 11 hereof.

4. **USAGE, LICENSE, TAXES AND FEES.** During the term of this Lease, the State shall have possession of and right to use the said motor vehicle for lawful purposes only and for
-

exclusive use within the United States and Puerto Rico. The limitation as to use of the vehicle within the United States and Puerto Rico, shall not restrict casual or occasional crossing into Canada where the vehicle is used principally and primarily by the State within the United States and Puerto Rico. The State shall pay or otherwise be responsible for all costs, fees and expenses required in licensing and registering the leased motor vehicle referred to herein, to the extent applicable, levied by any Federal, State or Local government, whether imposed on the Contractor or the State, covering or involving the ownership, possession, sale, use, operation or misuse of the leased motor vehicle. It is the intent of this Lease that all taxes and charges (other than Federal income taxes) imposed upon the ownership, possession, sale, use or operation or misuse of the leased motor vehicle, to the extent applicable, shall be paid by the State, and that any tax credits or discounts available to the Contractor, some of which may result from other business activities of Contractor, including, but not limited to, possible tax credits or refunds available to the Contractor that occur as a result of any subsequent resale or re-lease of the leased motor vehicle by the Contractor, shall solely inure to the benefit of the Contractor.

5. ***MAINTENANCE AND REPLACEMENT.*** The State, shall, at its own expense, take reasonable measures to cause the leased motor vehicles to be maintained in good working condition and appearance and Contractor shall have no responsibility therefor, or for any damages sustained by the State or others in privity with it by virtue of any mechanical or operational failure of the leased motor vehicle during the term of the Lease. The State agrees that all maintenance and replacement expense, including repairs, gasoline, oil, grease, tires, tubes, storage, parking, tolls, and other services shall be solely at the expense of the State it being the intent herein that the Contractor shall not be responsible for any charges or claims in connection with the operation of the leased vehicle.
6. ***SERVICE OF LESSOR.*** The State, in accordance with the Contract, including the Statement of Work, has the right to remarket leased vehicles. In the event the State does not wish to remarket a leased vehicle, Contractor agrees that in addition to making delivery of the motor vehicles and providing the Services and Deliverables, Contractor, upon return of a motor vehicle to Contractor, will render efficient service in sale or disposal of the leased motor vehicle to obtain the largest net return for the State.
7. ***LIABILITY OF CONTRACTOR.*** Contractor shall not be liable to the State if failure to deliver motor vehicles under this Lease due to strike or other causes beyond the control of the Contractor in the exercise of reasonable care. It is expressly understood and agreed that, with respect to use and possession of a leased vehicle, Contractor assumes no liability for any acts or omissions of the State, or of the State's agents, servants or employees, or for any property of the State and any persons in privity with the State, damaged, lost or stolen in or from the motor vehicles. Lessor expressly disclaims any and all warranties, whether express, implied or statutory, not specifically and expressly set forth herein, including without limitation any warranty as to merchantability, fitness for a particular purpose, description or otherwise. Contractor will pass through all vehicle warranties the State is eligible for from the manufacturers. The State further agrees that, as between Contractor and the State, the State is liable for damage, loss or destruction of each motor vehicle under lease while it is in the State's possession.
8. ***LEGAL COVENANTS.*** The State shall maintain and operate said motor vehicles in conformity with all laws and ordinances, State, Federal or Local and shall not permit said

motor vehicles to be used for the unlawful transportation of alcoholic beverages or narcotics. The State may use said motor vehicles at any and all times for any and all legal purposes, but the State agrees not to permit the leased vehicles to be driven except by agents, employees of the State or persons authorized to drive such vehicles by the State. Contractor has no obligation to provide drivers for the leased vehicles or for drivers' wages, employment and workmen's compensation insurance, social security and other requirements or for any traffic violations in which said leased vehicles may be involved. Within two (2) business days of becoming aware of a traffic violation, Contractor must notify the State of such violation. The State is responsible for resolution all such violations and toll charges associated with violations. If the State uses or allows any vehicles to be used for illegal purposes or for purposes not permitted under this Lease, the State agrees to pay any fines or penalties thereby incurred. The possession of the leased vehicle by someone other than the the State and its agents, during the time in which the leased motor vehicle is leased to the State, shall be the responsibility of the State and shall require its continued strict compliance with all the terms of this Lease as relates to said motor vehicle. The State hereby agrees to comply with regulations issued by the National Highway Traffic Safety Administration (*NHTSA*) in connection with the Federal *Truth in Mileage Act of 1986* and the State acknowledges receipt of the following notification in accordance with the law: Federal law (*and State law, if applicable*) requires that the State disclose the mileage to the Contractor in connection with the transfer of ownership of any vehicle operated under the Lease. Lessor is required by law to advise the State , and hereby does advise the State, that failure to complete the appropriate disclosure documentation, or making a false statement, may result in fines and/or imprisonment.

9. **INSIGNIA.** The State shall have the right, at its own expense, to affix to every motor vehicle so leased or loaned to it, any appropriate advertisement or insignia of its own design indicating that it is being used in the service of the State.
10. **DEFAULT.** The State may be deemed in default of its obligations under this Lease, upon written notice that any of the following have occurred, and the State fails to cure the alleged default within 60 days:
 - a. The State does not make a payment as provided in the Contract;—
 - b. The State fails to comply with the insurance requirements of this Lease;
 - c. The State knowingly makes any material misrepresentation to Contractor, which materially impacts Contractor's ability to perform under the Lease; or
 - d. The State materially breaches, defaults under, or fails to comply with, any terms or conditions of this Lease or of any other agreement(s) made between the State and Contractor that relate to this Lease.
11. **INSURANCE.** The State agrees to assume all liability for injury, death, or property damage occasioned by the operation and possession of each motor vehicle during the term and any renewals thereof of the applicable Lease. The State of Michigan is self-insured under 1984 PA 1984, and as set forth in State of Michigan Administrative Guide to State Government, 0820.01. The State agrees to furnish Contractor with insurance certificates or other acceptable written evidence of the within described insurance coverage.

12. **TERM OF THE LEASE.** Notwithstanding the expiration of any term that may be specified in this, should Lessee continue to place orders and lease new vehicles after such expiration, and in the event that Lessor has not terminated this Lease, the terms of this Lease shall fully apply as to all vehicles so ordered and leased by Lessee. Each motor vehicle shall be leased for an initial term of 12 months from the date of the delivery of such vehicle to the State, and thereafter for successive 12-month renewal terms; provided that Lessee shall have the right to cancel any vehicle at any time after the end of the first 12 months of the initial lease term for such vehicle by giving written notice of such cancellation to the Lessor in which event for cancellations, the effective date of such cancellation shall be the date of sale, unless the State elects to arrange for the sale of the vehicle, in which case the date of cancellation shall be the day Contractor receives funds derived from the sale of such vehicle from the State. Where applicable, the State agrees that upon termination of the lease of a motor vehicle for any reason whatsoever, the State will make available the motor vehicle to be returned to the Contractor within the State of Michigan.
13. **RESERVED**
14. **OWNERSHIP.** It is expressly agreed that the State by virtue of this Lease acquires no ownership, title, property, right, interest, (*or any option therefor*) in any leased motor vehicle save as provided in the Contract
15. **LEASE TYPE.** This Lease is for vehicles used by the State, and is not primarily for personal, family or household purposes.

THIS LEASE is executed in duplicate and a copy thereof delivered to the State, receipt of which copy is hereby acknowledged by the State .

IN WITNESS WHEREOF, Contractor and the State have caused these presents to be executed the day and year first above written.

LESSEE

THE STATE OF MICHIGAN

BY: _____

TITLE: _____

DATE: _____

LESSOR (Contractor)

WHEELS, INC.

BY: _____

ITS: _____

DATE: _____

Schedule B - Pricing
Cost of Ownership
State of Michigan
DTMB - Vehicle & Travel Services

2020 Chevrolet Express Passenger 3dr BWD 3500 155" LS, Model No. CG33706					
Base Purchase Price	\$38,830				
Lease Term (months)	36				
In Service Date	4/1/20				
Annual Mileage	33,333				
MPG	12				
Fuel Cost (Gal.)	\$3.35				
Discount (1) OEM Incentive	\$8,900.00				
Discount (2) Marketing Assistance	\$0.00				
Discount (3) Dealer Holdback	\$1,207.05				
Discount (4) Dealer Floorplan	\$581.00				
Discount (5) Billing Assistance	\$43.00				
Fee (1)	\$0.00				
Fee (2)	\$200.00				
Interest Rate	2.00%				
Stipulated Cost	\$28,299.40				
	Year 1	Year 2	Year 3	Year 4	Total Fees & Interest
Annual Interest	\$480	\$291	\$102		\$872.56
Annual Principal	\$9,433	\$9,433	\$9,433		\$28,299.40
Fuel Cost	\$9,305	\$9,305	\$9,305		\$27,916.39
Fuel Gallons	2778	2778	2778		
Fuel Fees	-\$83.75	-\$83.75	-\$83.75		-\$251.25
Maintenance Cost	\$89	\$120	\$322		\$531.00
Repair Order Count	3	5	4		
Maintenance Fees	\$10	\$10	\$6		\$25.38
Accident Cost	\$0	\$0	\$3,200		\$3,200.00
Accident Count	\$0	\$0	1		
Accident Fees	\$0	\$0	\$61		\$61.00
Resale	\$0	\$0	\$0	-\$10,000	\$10,000.00
Resale Fee	\$0	\$0	\$0	\$100	\$100.00
Other Fees	\$102	\$102	\$102		\$305.63
Cost Of Ownership	\$19,335	\$19,177	\$22,447	-\$9,900	\$51,060.12

2020 Dodge Charger 4dr Police AWD, Model No.: LDEE48

Base Purchase Price	\$39,639
Lease Term (months)	42
In Service Date	4/1/20
Annual Mileage	28,560
MPG	17
Fuel Cost (Gal.)	\$3.35

Discount (1) OEM Incentive	\$12,400.00
Discount (2) Marketing Assistance	\$1,356
Discount (3) Dealer Holdback	\$1,177
Discount (4) Dealer Floorplan	\$355.00
Discount (5) Billing Assistance	\$69.00
Fee (1)	\$0.00
Fee (2)	\$200.00
Interest Rate	2.00%
Stipulated Cost	\$24,481.80

	Year 1	Year 2	Year 3	Year 4	Total Fees & Interest
Annual Interest	\$426	\$286	\$146	\$20	\$877.26
Annual Principal	\$6,995	\$6,995	\$6,995	\$3,497	\$24,481.80
Fuel Cost	5,628	5,628	5,628	5,628	\$22,512.00
Fuel Gallons	1680	1680	1680	1680	
Fuel Fees	-\$50.65	-\$50.65	-\$50.65	-\$50.65	-\$202.61
Maintenance Cost	\$89	\$120	\$322	\$694	\$1,225.00
Repair Order Count	3	5	4	4	
Maintenance Fees	\$10	\$10	\$6	-\$2	\$23.50
Accident Cost	\$0	\$0	\$3,200	\$0	\$3,200.00
Accident Count	\$0	\$0	1	\$0	
Accident Fees	\$0	\$0	\$61	\$0	\$61.00
Resale	\$0	\$0	\$0	-\$8,000	-\$8,000.00
Resale Fee	\$0	\$0	\$0	\$100	\$100.00
Other Fees	\$88	\$88	\$88	\$44	\$308.47
Cost Of Ownership	\$13,185	\$13,076	\$16,395	\$1,931	\$44,586.43

2020 Dodge Grand Caravan 4dr SE Wagon, Model No.: RTKH53

Base Purchase Price	\$29,745					
Lease Term (months)	50					
In Service Date	4/1/20					
Annual Mileage	24,000					
MPG	17					
Fuel Cost (Gal.)	\$3.35					
Discount (1) OEM Incentive	\$6,304.00					
Discount (2) Marketing Assistance	\$1,133.00					
Discount (3) Dealer Holdback	\$858.30					
Discount (4) Dealer Floorplan	\$275.00					
Discount (5) Billing Assistance	\$64.00					
Fee (1)	\$0.00					
Fee (2)	\$200.00					
Interest Rate	2.00%					
Stipulated Cost	\$21,310.70					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total Fees & Interest
Annual Interest	\$379	\$277	\$175	\$72	\$2	\$905.70
Annual Principal	\$5,115	\$5,115	\$5,115	\$5,115	\$852	\$21,310.70
Fuel Cost	\$4,729	\$4,729	\$4,729	\$4,729	\$4,729	\$23,647.06
Fuel Gallons	1412	1412	1412	1412	1412	
Fuel Fees	-\$42.56	-\$42.56	-\$42.56	-\$42.56	-\$42.56	-\$212.82
Maintenance Cost	\$89	\$120	\$322	\$1,048	\$694	\$2,273.00
Repair Order Count	3	5	4	6	4	
Maintenance Fees	\$10	\$10	\$6	-\$9	-\$2	\$14.54
Accident Cost	\$0	\$0	\$3,200	\$0	\$0	\$3,200.00
Accident Count	\$0	\$0	1	\$0	\$0	
Accident Fees	\$0	\$0	\$61	\$0	\$0	\$61.00
Resale	\$0	\$0	\$0	\$0	-\$7,000	-\$7,000.00
Resale Fee	\$0	\$0	\$0	\$0	\$100	\$100.00
Other Fees	\$77	\$77	\$77	\$77	\$13	\$319.66
Cost Of Ownership	\$10,357	\$10,285	\$13,641	\$10,990	-\$654	\$44,618.84

2020 Chevrolet Impala 4-dr Sdn LT w/1LT, Model No.: 1GY69

Base Purchase Price	\$31,357						
Lease Term (months)	60						
In Service Date	4/1/20						
Annual Mileage	20,000						
MPG	17						
Fuel Cost (Gal.)	\$3.35						
Discount (1) OEM Incentive	\$7,400.00						
Discount (2) Marketing Assistance	\$0						
Discount (3) Dealer Holdback	\$949						
Discount (4) Dealer Floorplan	\$515.00						
Discount (5) Billing Assistance	\$34.00						
Fee (1)	\$0.00						
Fee (2)	\$200.00						
Interest Rate	2.00%						
Stipulated Cost	\$22,659.08						
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total Fees & Interest
Annual Interest	\$412	\$321	\$230	\$140	\$49		\$1,151.84
Annual Principal	\$4,532	\$4,532	\$4,532	\$4,532	\$4,532		\$22,659.08
Fuel Cost	3,941	3,941	3,941	3,941	3,941		\$19,705.88
Fuel Gallons	1176	1176	1176	1176	1176		
Fuel Fees	-\$35.47	-\$35.47	-\$35.47	-\$35.47	-\$35.47		-\$177.35
Maintenance Cost	\$89	\$120	\$322	\$1,048	\$694		\$2,273.00
Repair Order Count	3	5	4	6	4		
Maintenance Fees	\$10	\$10	\$6	-\$9	-\$2		\$14.54
Accident Cost	\$0	\$0	\$3,200	\$0	\$0		\$3,200.00
Accident Count	\$0	\$0	1	\$0	\$0		
Accident Fees	\$0	\$0	\$61	\$0	\$0		\$61.00
Resale	\$0	\$0	\$0	\$0	\$0	\$7,000	\$7,000.00
Resale Fee	\$0	\$0	\$0	\$0	\$0	\$100	\$100.00
Other Fees	\$82	\$82	\$82	\$82	\$82		\$407.86
Cost Of Ownership	\$9,030	\$8,970	\$12,338	\$9,698	\$9,260	\$7,100	\$56,395.85

2020 Ford F150 XL 4WD Supercab 145WB 6.5' Box, Model No. X1E

Base Purchase Price	\$40,264							
Lease Term (months)	72							
In Service Date	4/1/20							
Annual Mileage	16,666							
MPG	17							
Fuel Cost (Gal.)	\$3.35							
Discount (1) OEM Incentive	\$9,600.00							
Discount (2) Marketing Assistance	\$735							
Discount (3) Dealer Holdback	\$1,222							
Discount (4) Dealer Floorplan	\$540.15							
Discount (5) Billing Assistance	\$0.00							
Fee (1)	\$0.00							
Fee (2)	\$200.00							
Interest Rate	2.20%							
Stipulated Cost	\$28,366.85							
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Total Fees & Interest
Annual Interest	\$576	\$472	\$368	\$264	\$160	\$56		\$1,898.22
Annual Principal	\$4,728	\$4,728	\$4,728	\$4,728	\$4,728	\$4,728		\$28,366.85
Fuel Cost	\$3,284	\$3,284	\$3,284	\$3,284	\$3,284	\$3,284		\$19,705.09
Fuel Gallons	980	980	980	980	980	980		
Fuel Fees	-\$29.56	-\$29.56	-\$29.56	-\$29.56	-\$29.56	-\$29.56		-\$177.35
Maintenance Cost	\$89	\$120	\$322	\$1,048	\$694	\$375		\$2,648.00
Repair Order Count	3	5	4	6	4	2		
Maintenance Fees	\$10	\$10	\$6	-\$9	-\$2	\$5		\$19.04
Accident Cost	\$0	\$0	\$1,897	\$0	\$0	\$0		\$1,897.00
Accident Count	\$0	\$0	1	\$0	\$0	\$0		
Accident Fees	\$0	\$0	\$87	\$0	\$0	\$0		\$87.06
Resale	\$0	\$0	\$0	\$0	\$0	\$0	\$12,000	\$12,000.00
Resale Fee	\$0	\$0	\$0	\$0	\$0	\$0	\$100	\$100.00
Other Fees	\$102	\$102	\$102	\$102	\$102	\$102		\$612.72
Cost Of Ownership	\$8,760	\$8,687	\$10,765	\$9,388	\$8,937	\$8,520	\$12,100	\$67,156.64

Attachment 1 to Schedule B

A. Total Cost of Ownership

Associated Schedule B - Cost of Ownership Pricing

1. Complete the shaded fields on each of the spreadsheets in the workbook labeled as 36 Months, 42 Months, 50 Months, 60 Months, and 72 Months. Note that each spreadsheet assumes a different lease term and a different vehicle.
2. If your calculations to reach the stipulated cost include discounts or fees, please define, and explain each such line item in the box below.

Contractor Explanation for Discounts and Fees:

Discount 1: Amount indicated is the State's current manufacturer incentive for the listed model (amount would not differ based on the fleet management company chosen).

Discount 2: Marketing assistance credit (if applicable)

Discount 3: Holdback credit

Discount 4: Floorplan credit

Discount 5: Billing assistance credit (if applicable)

Fee 1: This is the manufacturer destination charge for the vehicle (not a Wheels fee)

Fee 2: This is the Wheels acquisition fee (\$200.00 for all vehicles)

Pass-through of manufacturer prep and delivery credits for vehicles delivered to VTS and dealer courtesy delivery charges for vehicles delivered to dealers. No fees from Wheels.

All above pricing applies for factory orders and pool orders (see below for funding considerations associated with Wheels pool orders) of vehicles leased through Wheels. For the acquisition of non-leased vehicles, a 2.00% fee applies. For any leased vehicles acquired via dealer stock, the acquisition cost formula is the price/specifications for each vehicle to be in accordance with parameters established between the State and Wheels, plus a 1.00% acquisition fee. For any vehicles requiring upfitting, a \$100.00 upfitting PO processing fee is added to the vehicle's stipulated cost. All acquisition pricing is subject to change based on changes in OEM programs.

Given the specified in-service date of April 1, 2020, a front-end interim charge would not apply for the scenarios prescribed by the State in this RFP.

3. In the Total Cost of Ownership modeling, explain how you define and/or calculate each shaded component that you fill in.

Contractor Explanation of Annual Interest:

Interest rate for each vehicle is fixed at beginning of lease based on index of Wheels AA Fixed Rate Index. The index rate is calculated as:

Annualized publicly traded AA corporate bond rate for the appropriate duration rounded up the nearest 5 basis points (subject to a minimum of zero); cost of issuance at 25 basis points*

*2-year duration is used for vehicles with a depreciation rate of 2.00% or above. 30-month duration is used for vehicles with a depreciation rate of between 1.67% and 1.99%. 3-year duration is used for vehicles with a depreciation rate of between 1.39% and 1.66%. 5-year duration is used for vehicles with a depreciation rate of between 1.19% and 1.38%.

The index rates applicable for May 2020 billing month for each amortization term are as follows:

36-50 months:

- Yield rate converted to effective annual yield and rounded up to nearest 5 bp = 1.40%
- Add cost of issuance of 25 bp (0.25%) = **1.65%** (1.40% + 0.25%)

60 months:

- Yield rate converted to effective annual yield and rounded up to nearest 5 bp = 1.40%
- Add cost of issuance of 25 bp (0.25%) = **1.65%** (1.40% + 0.25%)

72 months:

- Yield rate converted to effective annual yield and rounded up to nearest 5 bp = 1.40%
- Add cost of issuance of 25 bp (0.25%) = **1.65%** (1.40% + 0.25%)

84 months:

- Yield rate converted to effective annual yield and rounded up to nearest 5 bp = 1.60%
- Add cost of issuance of 25 bp (0.25%) = **1.85%** (1.60% + 0.25%)

The spreads to the index rate are based on amortization term of the lease, and are as follows:

36 months: 10 bp (0.10%)
42 months: 10 bp (0.10%)
50 months: 10 bp (0.10%)
60 months: 30 bp (0.30%)
72 months: 55 bp (0.55%)
84 months: 65 bp (0.65%)

Note: An additional spread of 75 bp applies for vehicles ordered through the Wheels pool.

The total interest rate for any vehicle shall not be less than 2.00%.

Add spread indicated above (and account for minimum) to achieve the **total interest rate** (effective for May 2020 billing) of:

36 months: **2.00%**
42 months: **2.00%**
50 months: **2.00%**
60 months: **2.00%**
72 months: **2.20%**
84 months: **2.50%**

Interest is calculated each month based on current month book value.

All pricing reflects an early payment discount of 1.50% that applies so long as invoices are paid by the 10th of the month. Should the State not take advantage of the early pay discount, such amount will be billed on a subsequent invoice.

Contractor Explanation of Annual Principal:

This is the monthly reserve payment = reserve rate based on lease amortization x stipulated cost

Reserve payments end when the vehicle is fully depreciated.

Contractor Explanation of Fuel Fees:

There is no fee for enrollment in Wheels' Fuel Management program. Amount indicated is reflective of the 90 bp (0.90%) rebate Wheels provides for all fuel purchases (provided average price per gallon for regular unleaded fuel exceeds \$2.00).

Contractor Explanation of Maintenance Fees:

This amount is reflective of the \$1.00 per vehicle, per month Maintenance Assistance Program fee, as well as the impact of the annual rebate Wheels is offering (2.00% pertaining to the State's spend on maintenance repairs performed through the Maintenance Assistance Program at National Account shops). National Accounts are nationwide maintenance chains with which Wheels has established relationships, that are listed in the Driver Passport provided for each vehicle. Listed value assumes all maintenance purchases are in-network (a 10% charge applies for out-of-network purchases if a non-network vendor is used when a network vendor was located within five miles of driver's location) and at National Accounts.

No Wheels fees for tows/roadside or for warranty claims

Contractor Explanation of Accident Fees:

Amount is reflective of Wheels' Collision Management fee of \$125.00 fee per accident and the 2.00% rebate we are offering on all accident repair network billing. Listed value assumes all repair transactions are in-network (a 10% charge applies for out-of-network purchases if a non-network vendor is used when a network vendor was located within 10 miles of driver's location.)

Wheels will provide to the State a 25% discount off NAGS pricing for glass.

Contractor Explanation of Resale Fees:

Wheels' resale fee is \$100.00 per sale (applies for all sales of vehicles leased through Wheels). Please note that for any State-guided sales or sales to drivers/employees, a document processing fee of \$75.00 also applies, but is charged to the purchaser of the vehicle (not the State).

Note: Resale values indicated are estimates based on the prescribed miles/months in service (amount would not differ based on the fleet management company chosen).

Contractor Explanation of Other Fees:

Monthly management fee = .03% x stipulated cost

\$35.00 monthly fee (plus management fee) applies for fully depreciated vehicles

LEASE PAYMENT TERMS. Amounts due under Exhibit 1 to Schedule A are billed monthly, in advance, and payment is due on the first day of the month billed. Contractor may at any time deduct, offset or withhold from any amounts owing to the State any amounts owing to Contractor or an affiliate of Contractor. *Monthly Payment* obligations shall begin on the first day of the calendar month following the month of *Delivery*. From the day of *Delivery* to the time when such *Monthly Payment* charges begin, State will pay an interim charge, in an amount equal to the first *Monthly Payment* charge, pro-rated on a daily basis. Only

interest will be billed (at Prime + 1%) from the date Contractor pays for the vehicle to the date of *Delivery*. *Monthly Payment* obligations end on the last day of the calendar month preceding *Termination*; from then until the date of *Termination*, the State will pay an interim charge, in an amount equal to the last *Monthly Payment* charge, pro-rated on a daily basis. In either case, only the cost of interest (at Prime + 1%) will be billed from the date of lease termination until the date of sale. The *Monthly Payment* for each motor vehicle shall be computed as set forth in this Attachment 1 to Schedule B and is intended to include the *Reserve* accrued for the estimated depreciation of the leased vehicle. Any interim charge is not considered part of the *Monthly Payment* and no portion of an interim charge or interim charge period will be part of or be used to calculate the *Reserve*. *Delivery* will be defined as the date the vehicle is accepted by the State; however, in no event shall the date of *Delivery* be more than seven days after the vehicle is received by the dealer. The Contractor will also render to the State details of the *Stipulated Cost* together with the term of the Lease thereof, and charges of all motor vehicles delivered to the State. All of the State's first-tier manufacturer incentives shall be applied to reduce the *Stipulated Cost* of each new vehicle. The *Termination* date for *Monthly Payment* purposes will be the date the vehicle is replaced by a new vehicle or, in the case of a vehicle with no replacement, the date the vehicle is sold, unless the State elects to arrange for the sale of the vehicle, in which case the date of cancellation shall be the day Contractor receives funds from the buyer designated by the State. In the case of a vehicle that is replaced by a new vehicle, the State shall be responsible for the interest cost from the date of *Termination* until the date of sale.

LEASE FUNDING RATE

Contractor's AA Fixed Rate Index shall be used for lease interest rates. These rates reflect the market for highly-rated borrowing spreads throughout multiple credit cycles. This structure is publicly verifiable, helps provide built-in insulation from market turmoil for both the Contractor and the State, and eliminates the need to frequently renegotiate interest structures.

The lease interest rate for each vehicle is established based on the vehicle's delivery date and is fixed for the life of the lease. Interest rates for vehicles delivered in each billing month are established on or around the 15th of the preceding calendar month and communicated promptly to the State.

MONTHLY LEASE PAYMENT CALCULATION

The monthly lease payment is comprised of interest, reserve, and management fee:

- **Interest:** Interest is calculated by multiplying the annual interest rate divided by 12 times the current book value. The book value is the vehicle's original stipulated cost less accumulated monthly reserve payments
- **Reserve:** Reserve payment for each vehicle is calculated by multiplying the reserve rate times the stipulated cost.
- **Management Fee:** The management fee is set forth in the "Contractor Explanation of Other Fees" section of this Attachment 1 to Schedule B.

SCHEDULE C

DATA_ELEMENTS_BILLING_AND_INTERFACE_FILES

[illegible]

SCHEDULE C
DATA_ELEMENTS_BILLING_AND_INTERFACE_FILES

Type of Billing or Interface File		Services Billing	Lease Billing	Miscellaneous Billing	Driver Files	Fuel Files	Fuel	PIN Numbers	Maintenance Files	TRAK to Vendor
Uniquely Assigned Vehicle Number (current system number is 5 digits)					X					
Fleet ID					X					
Billing Code (Wheels billing structure field)					X					
Driver ID					X					
First Name					X					
Last Name					X					
Address1					X					
Address2					X					
Address3					X					
City					X					
State					X					
Zip					X					
Location Phone					X					
Driver Phone					x					
email					X					
License Plate Number					X					
Employee Work Title					X					
License Plate Number					X					
License Plate State					X					
Billing Code (VTS billing structure field)					X					
Department					X					
Division					X					
Employee Status					X					
Vehicle number		X		X						
Billing Code (VTS billing structure field)		X								
License Plate Number										
Vehicle Identification Number (VIN)		X		X						
Vehicle Manufacturer, Year, Make, Model, Body, Engine, and Fuel Type		X		X						
Driver Name and address		X		X						

SCHEDULE C
DATA_ELEMENTS_BILLING_AND_INTERFACE_FILES

Type of Billing or Interface File		Services Billing	Lease Billing	Miscellaneous Billing	Driver Files	Fuel Files	Fuel	PIN Numbers	Maintenance Files	TRAK to Vendor
Department agency assignment		X		X						
Task Code									X	
SOM Department									X	
Labor Hours									X	
Labor Cost									X	
Part Number									X	
Part Description									X	
Part Quantity									X	
Part Cost									X	
Work Order Location									X	
Work Order Year									X	
Work Order Number									X	
Work Order Complete Date									X	
Uniquely Assigned Vehicle Number (current system number is 5 digits)									X	
Meter Reading									X	
Task Description in Fleet Focus									X	
Line Total									X	
Commercial Fuel Card										
Vehicle ID						X				x
Account Number						X				
Sequence Number						X				
Transaction Type						X				
Transaction Number						X				
Unit Card Number						X				x
Card Suffix						X				
Product Code						X				x
Odometer reading (Primary)						X				x
Employee ID (PIN)						X				
Tax Amount						X		X		
Vendor Number						X				
Transaction Date						X				

SCHEDULE C
DATA_ELEMENTS_BILLING_AND_INTERFACE_FILES

Type of Billing or Interface File		Services Billing	Lease Billing	Miscellaneous Billing	Driver Files	Fuel Files	Fuel	PIN Numbers	Maintenance Files	TRAK to Vendor
License Plate						X				
Transaction Time						X				
License Plate State						X				
Station Brand						X				
Site Number						X				
Station Name						X				
Department						X				
Station Address						X				
Location Code										
Station City						X				
Driver Last Name										
Station State and Zip code						X		X		
Site phone						X				
Driver Middle Initial								X		
Quantity purchased						X		X		x
Total sale						X				x
Unit Price						X				x
Billing Reports										
Invoice date		X	X	X						
Invoice closed date		X	X	X						
Invoice number		X	X	X						
Number of fuel transactions		X								
Number of fuel gallons per transaction		X								
Fuel Charges per transaction		X								
Oil charges		X								
Maintenance charges per transaction		X								
Quantity of tires		X								
Tire charges		X								
Maintenance fees		X								
Accident repair charges per transaction		X								
Car rental charges		X								
Miscellaneous charges		X								

SCHEDULE C
DATA_ELEMENTS_BILLING_AND_INTERFACE_FILES

Type of Billing or Interface File		Services Billing	Lease Billing	Miscellaneous Billing	Driver Files	Fuel Files	Fuel	PIN Numbers	Maintenance Files	TRAK to Vendor
Interest Charge			X							
Reserve/Principal payment charge			X							
Other amount/Administrative Fee		X	X							
Taxes		X	X	X						
Total charges		X	X	X						
Fuel Card File - Associate a Fuel card number to a vehicle in State Fuel Distribution System so fueling data can be imported into Fleet Focus										
Uniquely Assigned Vehicle Number (current system number is 5 digits)							X			
Fuel Card Account							X			
Card Number							X			
Card Status							X			
Division							X			

SCHEDULE E

CONTRACTOR HOSTED SOFTWARE AND SERVICES

1. Definitions. In addition to the definitions found in the Contract Terms, for the purposes of this Contract, the following terms have the following meanings:

“Authorized Users” means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

“Harmful Code” means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.

“Hosted Services” means the hosting, management and operation of the Software and other services for remote electronic access and exclusive use by the State and its Authorized Users as described in one or more written, sequentially numbered, statements of work referencing this Contract, including all Specifications set forth in such statements of work, which, upon their execution will be attached as **Schedule A** to this Contract and by this reference are incorporated in and made a part of this Contract.

“Open-Source Components” means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third party of any source code with which such software component is used or compiled.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.

“Service Error” means any failure of any Hosted Service to be Available or otherwise perform in accordance with this Schedule.

“Specifications” means the specifications for the Software set forth in the applicable Statement of Work and, to the extent consistent with and not limiting of the foregoing, the Documentation.

“State Materials” means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

“Support Services” means the Software maintenance and support services Contractor is required to or otherwise does provide to the State pursuant to this **Schedule E** and **Exhibit 1** to this **Schedule E**.

“Technical Specification” means, with respect to any Software, the document setting forth the technical specifications for such Software and included in the Statement of Work.

“User Data” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored,

processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.

“Warranty Period” means the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software.

2. Hosted Software License Grant and Source Code Escrow

2.1 Contractor License Grant. Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable (except as provided herein) right during the Term and such additional periods, if any, as Contractor is required to perform Services under this Contract or any Statement of Work, to:

(a) access and use the Hosted Services, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;

(b) generate, print, copy, upload, download, store and otherwise Process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Hosted Services;

(c) prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Hosted Services under this Contract; and

(d) access and use the Hosted Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Hosted Services, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Hosted Services.

2.2 License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Hosted Services available to any third party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Hosted Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.

2.3 Use. The State will pay Contractor the corresponding Fees set forth in the Statement of Work for all Authorized Users access and use of the Hosted Services or Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Hosted Services or Software, including any excess use.

2.4 Open-Source Licenses. For Contractor Hosted Software only (and not for the provision of Software-as-a-Service), any use hereunder of Open-Source Components shall be governed by, and subject to, the terms and conditions of the applicable open-source license (“Open-Source License”). Contractor shall identify and describe in an exhibit to the Statement of Work each of the Approved Open-Source Components of

the Software, and include an exhibit attaching all applicable Open-Source Software Licenses or identifying the URL where these licenses are publicly available.

3. Hosted Services Testing and Acceptance.

3.1 Hosted Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the Hosted Services procured thereunder ready and available for the State's use in accordance with the Statement of Work and this Contract, including any applicable milestone date or dates set forth in such Statement of Work.

3.2 Testing and Acceptance.

(a) When Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, the State will have thirty (30) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the notice to test the Hosted Services to determine whether they comply in all material respects with the requirements of this Contract and the Specifications.

(b) Upon completion of the State's testing, the State will notify Contractor of its acceptance ("**Accept**" or "**Acceptance**") or, if it has identified any noncompliance with the Specifications, rejection ("**Reject**" or "**Rejection**") of the Hosted Services. If the State Rejects the Hosted Services, the State will provide a written list of items that must be corrected. On receipt of the State's notice, Contractor will promptly commence, at no additional cost or charge to the State, all reasonable efforts to complete, as quickly as possible and in any event within twenty (20) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the State's notice, such necessary corrections, repairs and modifications to the Hosted Services to bring them into full compliance with the Specifications.

(c) If any corrective measures are required under **Section 3.2(b)**, upon completion of all such measures, Contractor will notify the State in writing and the process set forth in **Section 3.2(a)** and **Section 3.2(b)** will be repeated; provided that if the State determines that the Hosted Services, as revised, still do not comply in all material respects with the Specifications, the State may, in its sole discretion:

- (i) require the Contractor to repeat the correction, repair and modification process set forth in **Section 3.2(b)** at no additional cost or charge to the State; or
- (ii) terminate any and all of the relevant Statement of Work, this Contract and any other Statements of Work hereunder.

(d) The parties will repeat the foregoing procedure until the State Accepts the Hosted Services or elects to terminate the relevant Statement of Work as provided in **Section 3.2(c)(ii)** above. If the State so terminates the relevant Statement of Work, Contractor must refund to the State all sums previously paid to Contractor under such Statement of Work within ten (10) Business Days of the State's written notice of termination, and the State will be relieved of all obligations thereunder.

4. Support Services.

4.1 Maintenance and Support Services. Contractor will provide Hosted Service maintenance and support services (collectively, “**Support Services**”) in accordance with the provisions set forth in this **Schedule E** and in the Service Level Agreement, attached as **Exhibit 1** to this **Schedule E** (the “**Support Services and Service Level Agreement**”).

4.2 Maintenance Services. Contractor will provide Hosted Service maintenance and support services (collectively, “**Software Support Services**”) in accordance with the provisions of this **Schedule E**, including **Exhibit 1** to this **Schedule E**. The Software Support Services are included in the Services, and Contractor may not assess any additional fees, costs or charges for such Software Support Services. Contractor will continuously maintain the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement as defined in **Exhibit 1** to this **Schedule E**. Such maintenance services include providing to the State and its Authorized Users:

(a) all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Hosted Services, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; and

(b) all such services and repairs as are required to maintain the Hosted Services or are ancillary, necessary or otherwise related to the State’s or its Authorized Users’ access to or use of the Hosted Services, so that the Hosted Services operate properly in accordance with the Contract and this **Schedule E**.

4.3 Support Service Responsibilities. Contractor will:

(a) correct all Service Errors in accordance with the Support Service Level Requirements as defined in **Exhibit 1** to this **Schedule E**, including by providing defect repair, programming corrections and remedial programming;

(b) provide unlimited telephone support between the hours of 7 am and 7 pm, EST;

(c) provide unlimited online support 24 hours a day, seven days a week;

(d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and

(e) respond to and Resolve Support Requests as specified in **Exhibit 1** to this **Schedule E**.

5. Software and Service Warranties.

5.1 Contractor represents and warrants to the State that:

(a) Contractor has, and throughout the Term and any additional periods during which Contractor does or is required to perform the Services, including Hosted Services, will have, the unconditional and irrevocable right, power and authority, including all permits and licenses required, to provide the Services and grant and perform all rights and licenses granted or required to be granted by it under this Contract;

(b) neither Contractor's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Contract does or at any time will: (i) conflict with or violate any applicable law, including any law relating to data privacy, data security or personal information; (ii) require the consent, approval or authorization of any governmental or regulatory authority or other third party; or (iii) require the provision of any payment or other consideration by the State or any Authorized User to any third party, and Contractor shall promptly notify the State in writing if it becomes aware of any change in any applicable law that would preclude Contractor's performance of its material obligations hereunder;

(c) as accessed and used by the State or any Authorized User in accordance with this Contract and the Specifications, the Hosted Services, Documentation and all other Services and materials provided by Contractor under this Contract will not infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party;

(d) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened action, and it has not received any written, oral or other notice of any action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services, Hosted Services, or Software does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services, including Hosted Services, or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

(e) the Software, Services (including Hosted Services) will in all material respects conform to and perform in accordance with the Specifications and all requirements of this Contract, including the Availability and Availability Requirement provisions set forth in Exhibit 1 to this **Schedule E**;

(f) all Specifications are, and will be continually updated and maintained so that they continue to be, current, complete and accurate and so that they do and will continue to fully describe the Hosted Services in all material respects such that at no time during the Term or any additional periods during which Contractor does or is required to perform the Services will the Hosted Services have any material undocumented feature;

(g) the Contractor Systems and Services (including Hosted Services) are and will remain free of Harmful Code;

(h) Contractor will not advertise through the Hosted Services (whether with adware, banners, buttons or other forms of online advertising) or link to external web sites that are not approved in writing by the State;

(i) Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to

meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;

(j) During the term of this Contract, any audit rights contained in any third-party software license agreement or end user license agreement for third-party software incorporated in or otherwise used in conjunction with the Services, will apply solely to Contractor's (or its subcontractors) facilities and systems that host the Services (including any disaster recovery site), and regardless of anything to the contrary contained in any third-party software license agreement or end user license agreement, third-party software providers will have no audit rights whatsoever against State systems or networks; and

(k) Contractor acknowledges that the State cannot indemnify any third parties, including but not limited to any third-party software providers that provide software that will be incorporated in or otherwise used in conjunction with the Services, and that notwithstanding anything to the contrary contained in any third-party software license agreement or end user license agreement, the State will not indemnify any third party software provider for any reason whatsoever.

5.2 DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY SUBJECT MATTER HEREOF.

SCHEDULE E, EXHIBIT 1

Support Services and Service Level Agreement for Hosted Services

1. Definitions. For purposes of this **Exhibit 1 to Schedule E**, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract or its associated respective Schedules.

“Actual Uptime” means the total minutes in the Service Period that the Hosted Services are Available.

“Availability” has the meaning set forth in **Section 3(a)**.

“Availability Requirement” has the meaning set forth in **Section 3(a)**.

“Available” has the meaning set forth in **Section 3(a)**.

“Contractor Service Manager” has the meaning set forth in **Section 2.1**.

“Corrective Action Plan” has the meaning set forth in **Section 4.3**.

“Critical Service Error” has the meaning set forth in **Section 4**.

“Exceptions” has the meaning set forth in **Section 3.2**.

“Force Majeure Event” has the meaning set forth in **Section 5.1**.

“High Service Error” has the meaning set forth in **Section 4**.

“Hosted Services” has the meaning set forth in **Schedule E**.

“Low Service Error” has the meaning set forth in **Section 4**.

“Medium Service Error” has the meaning set forth in **Section 4**.

“Resolve” has the meaning set forth in **Section 4.1(a)**.

“Scheduled Downtime” has the meaning set forth in **Section 3.3**.

“Scheduled Uptime” means the total minutes in the Service Period.

“Service Availability Credits” has the meaning set forth in **Section 3.6(a)**.

“Service Level Credits” has the meaning set forth in **Section 4.2**.

“Service Level Failure” means a failure to perform the Software Support Services fully in compliance with the Support Service Level Requirements.

“Service Period” has the meaning set forth in **Section 3(a)**.

“Software” has the meaning set forth in the Contract.

“Software Support Services” has the meaning set forth in **Section 4.1**.

“State Service Manager” has the meaning set forth in **Section 2.2**.

“State Systems” means the information technology infrastructure, including the computers, software, databases, electronic systems (including database management systems) and networks, of the State or any of its designees.

“Support Request” has the meaning set forth in **Section 4**.

“Support Service Level Requirements” has the meaning set forth in **Section 4**.

“Term” has the meaning set forth in the Contract.

2. Personnel

2.1 Contractor Personnel for the Hosted Services. Contractor will appoint a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of Support Requests and the Software Support Services (the **“Contractor Service Manager”**). **The Contractor Service Manager** will be considered Key Personnel under the Contract.

2.2 State Service Manager for the Hosted Services. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the primary contact with respect to the Services who will have the authority to act on behalf of the State in matters pertaining to the Software Support Services, including the submission and processing of Support Requests (the **“State Service Manager”**).

3. Service Availability and Service Availability Credits.

(a) **Availability Requirement.** Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a **“Service Period”**), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the **“Availability Requirement”**). **“Available”** means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. **“Availability”** has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: (Actual Uptime – Total Minutes in Service Period Hosted Services are

not Available Due to an Exception) ÷ (Scheduled Uptime – Total Minutes in Service Period Hosted Services are not Available Due to an Exception) x 100 = Availability.

3.2 Exceptions. No period of Hosted Service degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following ("**Exceptions**"):

- (a) failures of the State's or its Authorized Users' internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 3.3**.

3.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services in whole or in part ("**Scheduled Downtime**"). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 12:00 a.m. and 5:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

3.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

3.5 Service Availability Reports. Within thirty (30) days after the end of each Service Period, Contractor will provide to the State a report describing the Availability and other performance of the Hosted Services during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

3.6 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error.:

Availability	
≥99.98%	
<99.98% but ≥99.0%	
<99.0% but ≥95.0%	
<95.0%	

(b) If the actual Availability of the Hosted Services is less than the Availability Requirement in any two (2) of four (4) consecutive Service Periods, then, in addition to all other remedies available to the State, the State may terminate the Contract on written notice to Contractor with no liability, obligation or penalty to the State by reason of such termination.

3.7 Service Monitoring and Management. Contractor will continuously monitor and manage the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement. Such monitoring and management includes:

(a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;

(b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and

(c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):

(i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;

(ii) if Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 4**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and

(iii) notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

4. Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 4** ("**Support Service Level Requirements**"), and the Contract.

4.1 Support Requests. The State will classify its requests for Service Error corrections in accordance with the descriptions set forth in the chart below (each a "**Support Request**"). The State Service Manager will notify Contractor of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none"> • Issue affecting entire system or single critical production function; • System down or operating in materially degraded state; • Data integrity at risk; • Declared a Critical Support Request by the State; or • Widespread access interruptions.
High Service Error	<ul style="list-style-type: none"> • Primary component failure that materially impairs its performance; or • Data entry or access is materially impaired on a limited basis.
Medium Service Error	<ul style="list-style-type: none"> • Hosted Service is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.
Low Service Error	<ul style="list-style-type: none"> • Request for assistance, information, or services that are routine in nature.

(a) Response and Resolution Time Service Levels. Response and Resolution times will be measured from the time Contractor receives a Support Request until the respective times Contractor has (i) responded to, in the case of response time and (ii) Resolved such Support Request, in the case of Resolution time. “**Resolve**” (including “**Resolved**”, “**Resolution**” and correlative capitalized terms) means that, as to any Service Error, Contractor has provided the State the corresponding Service Error correction and the State has confirmed such correction and its acceptance thereof. Contractor will respond to and Resolve all Service Errors within the following times based on the severity of the Service Error:

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)
Critical Service Error	One (1) hour	Twenty-four (24) hours
High Service Error	Four (4) hours	Forty-Eight (48) hours

Medium Service Error	Eight (8) hours	Three (3) Business Days
Low Service Error	Eight (8) hours	Five (5) Business Days

(b) Escalation. With respect to any Critical Service Error Support Request, until such Support Request is Resolved, Contractor will escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Contractor support personnel, including, as applicable, the Contractor Service Manager and Contractor's management or engineering personnel, as appropriate.

4.2 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 4.1(a) ("Service Level Credits")** in accordance with payment terms set forth in the Contract.

4.3 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State's review, comment and approval, which, subject to and upon the State's written approval, shall be a part of, and by this reference is incorporated in, the Contract as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan must include, at a minimum: (a) Contractor's commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

5. Force Majeure.

5.1 Force Majeure Events. Subject to **Section 5.3**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

5.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under the Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate the Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of five (5) Business Days or more. Unless the State terminates the Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under the Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

5.3 Exclusions: Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of the Contract or this Schedule:

- (a) in no event will any of the following be considered a Force Majeure Event:
 - (i) shutdowns, disruptions or malfunctions of Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Contractor Systems; or
 - (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event.

SCHEDULE F

Data Security Requirements

1. Definitions. For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract.

“**Contractor Security Officer**” has the meaning set forth in **Section 2** of this Schedule.

“**Contractor Systems**” has the meaning set forth in **Section 5** of this Schedule.

“**FedRAMP**” means the Federal Risk and Authorization Management Program, which is a federally approved risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

“**FISMA**” means the Federal Information Security Modernization Act of 2014 (44 U.S.C. § 3551 et seq.).

“**Hosted Services**” means the hosting, management and operation of the computing hardware, ancillary equipment, Software, firmware, data, other services (including support services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

“**NIST**” means the National Institute of Standards and Technology.

“**PSP**” means the State’s IT Policies, Standards and Procedures located at:

http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html

“**PCI**” means the Payment Card Industry.

“**SSAE**” means Statement on Standards for Attestation Engagements.

2. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Contractor Systems who has sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto (“**Contractor Security Officer**”). The Contractor Security Officer will be considered Key Personnel under the Contract.

3. Protection of the State’s Confidential Information. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will:

3.1. The Contractor must maintain an annual SSAE 18 SOC 2 Type 2 audit for the Hosted Services commencing no later than June 30, 2021 and throughout the Term Apttus __ APTS _Agreement __ c

3.2. ensure that the Software and State Data is securely hosted, supported, administered, and accessed in a data center and backup data center that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards (www.uptimeinstitute.com), or its equivalent;

3.3. maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State's Confidential Information that comply with the requirements of the State's data security policies as set forth in the Contract, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD Controls using minimum control values as established in the applicable PSP, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) HIGH Controls using minimum control values as established in the applicable PSP;

3.4. provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of the State's Confidential Information and the nature of such Confidential Information, consistent with best industry practice and standards;

3.5. take all reasonable measures to:

- (a) secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Services against "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems or the information found therein; and
- (b) prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) the State's Confidential Information from being commingled with or contaminated by the data of other customers or their users of the Services; and (iii) unauthorized access to any of the State's Confidential Information;

3.6. ensure that State Data is encrypted in transit and at rest using AES 256bit or higher encryption;

3.7. ensure that State Data is encrypted in transit and at rest using currently certified encryption modules in accordance with FIPS PUB 140-2 (as amended). *Security Requirements for Cryptographic Modules*;

3.8. ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML) or comparable mechanisms;

3.9. ensure the Hosted Services have multi-factor authentication for privileged/administrative access; and

3.10. assist the State, at no additional cost, with development and completion of a system security plan using the State's automated governance, risk and compliance (GRC) platform.

4. Unauthorized Access. Contractor may not access, and shall not permit any access to, State systems, in whole or in part, whether through Contractor's Systems or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and this Schedule, and in no case exceed the scope of the State's authorization pursuant to this **Section 4**. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the

Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

5. Contractor Systems. Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Contractor in connection with the Services ("**Contractor Systems**") and shall prevent unauthorized access to State systems through the Contractor Systems.

6. Security Audits. During the Term, Contractor will:

6.1. maintain complete and accurate records relating to its data protection practices, IT security controls, and the security logs of any of the State's Confidential Information, including any backup, disaster recovery or other policies, practices or procedures relating to the State's Confidential Information and any other information relevant to its compliance with this Schedule;

6.2. upon the State's request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Contractor Systems and their housing facilities and operating environments; and

6.3. if requested by the State, commencing after Contractor has completed its initial audit period, provide a copy of Contractor's SSAE 18 SOC 2 Type 2 audit report to the State within thirty (30) days after Contractor's receipt of such report. Any such audit reports will be recognized as Contractor's Confidential Information.

7. Nonexclusive Remedy for Security Breach. Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination, however this provision will not alter obligations for payment and fees related to fleet management Services addressed elsewhere in the agreement.

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Note: Per the State's indication in item 1.11 of "Schedule A - Statement of Work," we have assumed that the below Exhibit will be treated confidentially and will not be publicized, disclosed or distributed.

SCHEDULE F, Exhibit 1

Contractor's Disaster Recovery Plan

CONFIDENTIAL

SCHEDULE G

Federal Provisions Addendum

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

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

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

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

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

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

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

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

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

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

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

2. Davis-Bacon Act (Prevailing Wage)

- a. If applicable, the Contractor (and its Subcontractors) for **prime construction contracts** in excess of \$2,000 must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").
- b. The Contractor (and its Subcontractors) shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and the laborers and mechanics;
- c. The Contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work;
- d. There may be withheld from the Contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the Contractor or any Subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Contractor or Subcontractors or their agents.

3. **Copeland “Anti-Kickback” Act.** If applicable, the Contractor must comply with the [Copeland “Anti-Kickback” Act \(40 USC 3145\)](#), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
4. **Contract Work Hours and Safety Standards Act.** If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable.
5. **Rights to Inventions Made Under a Contract or Agreement.** If the Contract is funded by a federal “funding agreement” as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
6. **Clean Air Act.** If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency.
7. **Debarment and Suspension.** A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
8. **Byrd Anti-Lobbying Amendment.** If this Contract **exceeds \$100,000**, bidders and the Contractor must file the certification required under [31 USC 1352](#).
9. **Procurement of Recovered Materials.** Under [2 CFR 200.322](#), a non-Federal entity that is a state agency or agency of a political subdivision of a state **and its contractors** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Byrd Anti-Lobbying Certification

The following certification and disclosure regarding payments to influence certain federal transactions are made under FAR 52.203-11 and 52.203-12 and [31 USC 1352](#), the "Byrd Anti-Lobbying Amendment." Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. [FAR 52.203-12](#), "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification.
2. The bidder, by submitting its proposal, hereby certifies to the best of his or her knowledge and belief that:
 - a. No federal **appropriated** funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;
 - b. If any funds **other than federal appropriated funds** (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf **in connection with this solicitation**, the bidder must complete and submit, with its proposal, [OMB standard form LLL, Disclosure of Lobbying Activities](#), to the Solicitation Manager; and
 - c. He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 must certify and disclose accordingly.
3. This certification is a material representation of fact upon which reliance is placed at the time of Contract award. Submission of this certification and disclosure is a prerequisite for making or entering into this Contract under [31 USC 1352](#). Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision is subject to a civil penalty of not less than \$100,000, and not more than \$100,000, for each such failure.

Signed by:

[Type name and title]

[Type company name]

Date: _____