



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 071B7700133

CONTRACTOR	ALLIANT INSURANCE SERVICES INC
	1301 Dove Street , Suite 200
	Newport Beach, CA 92660
	Justin Swarbrick
	248-205-2931
	jjswarbrick@alliant.com
	CV0015013

STATE	Program Manager	Stephanie Epps	DTMB
		517-284-7011	
	eppss@Michigan.gov		
	Contract Administrator	Mary Ostrowski	DTMB
(517) 249-0438			
ostrowskim@michigan.gov			

CONTRACT SUMMARY

INSURANCE BROKERAGE AND RISK MANAGEMENT SERVICES

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
May 5, 2017	May 4, 2022	3 - 1 Year	May 4, 2022
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	3 - One Year	<input type="checkbox"/>		May 4, 2025
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$8,000,000.00	\$7,039,690.00	\$15,039,690.00		

DESCRIPTION

Effective May 5, 2022, this Contract is exercising 3 option years and is increased by \$7,039,690.00. The revised contract expiration date is May 4, 2025.

All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on March 29, 2022.



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

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

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **071B7700133**
between
THE STATE OF MICHIGAN
and

CONTRACTOR	Alliant Insurance Services, Inc.
	1301 Dove Street, Suite 200
	Newport Beach, CA 92660
	Justin Swarbrick
	248-205-2931
	jjswarbrick@alliant.com
	5439

STATE	Program Manager	Stephanie Epps	DTMB
		517-284-7011	
		epps@michigan.gov	
STATE	Contract Administrator	Chelsea Edgett	DTMB
		517-284-7017	
		edgett@michigan.gov	

CONTRACT SUMMARY			
Insurance Brokerage and Risk Management Services			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 5, 2017	May 4, 2022	3 – 1 Year	N/A
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of our inquiring RFP No. 007117B009665. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$8,000,000.00

FOR THE CONTRACTOR:

Alliant Insurance Services, Inc.

Company Name

Authorized Agent Signature

Daniel Howell

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Tom Falik, Services Category Director

Name & Title

DTMB - Procurement

Agency

Date

STATE OF MICHIGAN

Insurance Brokerage & Risk Management Consultant

SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This is a Contract to provide insurance and risk management services for Department of Technology, Management & Budget (DTMB)-Procurement's Risk and Analytics Section, third parties and MiDEAL members (authorized local units of government). The Contractor must primarily provide DTMB services.

BACKGROUND

Under PA 431 of 1984, DTMB provides risk management services to the executive branch of state government and obtains insurance coverages on behalf of the State of Michigan. The State of Michigan needs to acquire insurance policies where law or contract require and in certain instances where a strong business case exists for coverage. Because access to the commercial insurance marketplace is limited to insurance brokers, a broker's services are needed to acquire these coverages. Additionally, DTMB-Procurement's Risk and Analytics Section provides risk management and insurance consultation and education to the executive branch of state government, and requires access to specialized knowledge in insurance and risk management areas.

SCOPE

The primary duty of the Contractor is to market and obtain the insurance coverages DTMB-Procurement's Risk and Analytics Section needs to obtain for its customers. Currently, such insurance coverages include, but are not limited to the following:

Type	Incumbent Carrier w/ A.M. Best Rating	Schedule	Fiscal Year (FY) 2017 Cost
Aviation – Aircraft	Commerce and Industry Insurance Company (A XV)	19 aircraft	\$107,294.00
Aviation – Airport	Commerce and Industry Insurance Company (A XV)	3 locations	\$4,760.00
Boiler & Machinery	CNA (A XV)	233 locations	\$95,000.00
Employee Crime	National Union Fire Insurance Company of Pittsburgh, PA. (A XV)	46,588 state employees	\$147,552.00
Fine Arts	Ironshore Indemnity Inc. (A XIV)	\$997,600 in assets	\$2,220.94
Foreign Travel	Ace American Insurance Company (A++ XV)	47,003 state employees	\$3,000
General Liability	Mt. Hawley Insurance Company (A+ XI)	6,500,000 in square footage	\$79,106.43
Special Liability Insurance Program (SLIP)	Associated Industries Insurance Company (A XIV)		\$5,026.32
Total			\$443,959.69

Type	Incumbent Carrier w/ A.M. Best Rating	Schedule	FY 2017 Cost
Property Liability	Alliant Property Insurance Program (APIP)	\$1,500,000,000 in building value	\$588,122.81 (pro-rata cost 10/01/16-07/01/17)

Environmental Liability	Alliant Property Insurance Program (APIP)	TIV \$2,060,131,742.00	\$8,393.73 (pro-rata cost 10/01/16-07/01/17)
Privacy & Security (Cyber) Liability	Alliant Property Insurance Program (APIP)	TIV \$2,060,131,742.00	\$8,098.53 (pro-rata cost 10/01/16-07/01/17)
Total			\$604,615.07 (pro-rata cost 10/01/16-07/01/17)

Though the State of Michigan does not currently maintain other coverages, it does require access to the following types:

Table 3 – Other Coverages and Bonds
Type
Privacy/Cyber Liability (Excess or Stand Alone)
Property in Transit
Surety Bonds
Performance Bonds
Professional Liability
Directors and Officers Liability
Rail Road Liability
Malpractice Insurances
Automotive
Builder's Risk

Additionally, the Contractor must provide risk management and insurance consulting and services, as well as access to other risk management and insurance services as detailed within the Requirements Section of this Statement of Work.

1. GENERAL REQUIREMENTS

1.1. Insurance Broker Services

1. Contractor must maintain access to and have an established commercial relationship with those carriers (either directly or through a wholesaler) listed in **Table 1 -Current Coverages (other than property)**.

In addition, the State of Michigan will have access to the Alliant Property Insurance Program (APIP) which is listed in Table 2. The additional benefits the State will have as part of this program are the following:

- Reduced rates
- \$1 Billion All Risk Limit
- Increases sub limits
- Cyber Liability
- Pollution Liability
- Appraisals for buildings over \$5 Million
- The ability to add rented contractors equipment for no additional premium mid term

Additionally, the State will have access to the Special Liability Insurance Program (SLIP) and the Alliant Crime Insurance Program (ACIP-Employee Crime). Other examples of Contractor exclusive programs available to the State are the following:

- FLIP – Fiduciary Liability Insurance Program
- CLIP – Catastrophic Liability Insurance Program.
- SPIP – Special Authority Property Insurance Program.
- Special Events Liability Program.
- Vendors/Contractors Program and Vendors Professional Liability Program

2. Contractor must maintain access to and have an established commercial relationship with the Property Placement Program listed in **Table 2 – Current Property Placement Program**.
3. Contractor must maintain access to and have an established commercial relationship with carriers (either directly or through a wholesaler) able to provide the coverages listed in **Table 3 - Other Coverages and Bonds**.
4. Contractor must act as the State of Michigan's Broker of Record, and work to market and binding these coverage as directed by the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee. Marketing and binding must occur in a timely manner that does not cause a lapse in coverage.

1.2. Consulting and Training

1. Contractor must provide risk management and insurance-related consulting, such as consulting on insurance requirements for State of Michigan Contracts, filing claims, maintaining insurance schedules, industry best practices, etc.
2. Contractor must also work with DTMB-Procurement's Risk and Analytics Section to develop, and must provide training, and associated materials, on insurance requirements, insurance certificates, and related topics for State of Michigan employees at least 6 times per year at State of Michigan chosen locations.

1.3. Insurance Broker Services for Third Parties

1. In addition to **Extended Purchasing Program (Standard Contract Terms, Section 8)**, contractor must extend access to insurance broker services to State of Michigan's contractors (typically, but not per se, small businesses) who may have difficulty obtaining coverages required of them by their contracts with the State of Michigan. Contractor must provide this access at the established Contract prices. The State reserves the right to impose an administrative fee. (See Section 7. **Administrative Fee and Reporting, Standard Contract Terms** for details).
2. Though Contractor must provide access to the State of Michigan's contractors in general, Contractor may decline to provide services to any individual contractor for any legal reason, assuming good faith on Contractor's part in doing so.
3. Contractor must submit invoices to, and receive payment from, State of Michigan's contractors on a direct and individual basis. State of Michigan's contractors responsible for their own payments, and the State of Michigan makes guarantee of any third parties ability to pay.
4. Contractor and the State of Michigan agree that any claim of confidentiality a third party making use of this contract may have is waived, but only as to information required to be shared with the State of Michigan under this contract.

1.4. Additional Services

Contractor may provide access to other optional risk management and insurance services, either directly or through a subcontractor, such as actuarial services, insurance certificate tracking services, risk assessments, and property valuation. Other services offered follow:

Loss Control Consulting Services

The Contractor's Loss Control services will be focused on identifying and reducing exposures and will be part of an overall risk management program strategy.

The Contractor's has developed a number of no cost loss prevention resources that the State can utilize to address its risk exposures:

- Risk Control On Line Video Streaming
- Risk Control Webinars
- Risk Control Hotline & Alerts
- Newsletters
- Smart Phone Emergency Preparedness Application
- Fact Sheets

As part of this agreement, the Contractor will include 25 hours of risk control as a part of the proposed fee. As a part of the service plan, Contractor will facilitate an initial consultation with a Risk Control professional to review the State's current Risk Control strategy. Criteria that will be used to evaluate and assess include current insurance and safety programs, loss history and trends, management goals and objectives, past surveys, survey recaps, and risk management hours allocated to managing each line of risk. As a result of this consultation, the Contractor can determine where their Risk Control personnel can best supplement and complement the work the State is already providing its stakeholders. **Upon exhaustion of the 25 hours, the rate for the risk control provider would be \$150 per hour.**

Customized Webinars

The State will have access to the Contractor's extensive webinar library as well as upcoming webinars. The webinars are developed and presented by both Contractor staff members and third party experts. They are free of charge and offered on a monthly basis. Below is a sample of webinars that have been presented in the past. These are available to 'play back' on-line at any time:

- Modeling Catastrophic Exposures and Calculating Probable Maximum Loss
- Secondary Characteristics for Wind and Earthquake Modeling
- Incident Investigation and Root Cause Analysis
- Identifying and Managing Electrical Hazards
- Preventing and Responding to Flood and Water Damage
- Lessons Learned from Earthquakes
- Beyond Disaster Recovery: IT and Business Recovery
- Understanding Catastrophic Exposures
- Using Infrared Surveys in Property Loss Control
- Preparing for a Pandemic or Other Catastrophic Event
- How to Reduce the Impact of Fraud on Your Organization

Additional Training

The Contractor will include some additional training that is available to the State free of cost and many of which are now available just a click away:

- Water intrusion prevention and response.
- Winter facility preparation for preventing freeze-related losses.
- How to perform building roof inspections.
- Disaster scenario and business interruption desktop exercises.
- Root cause accident and incident investigation
- Behavior-based safety management
- Hazard communication
- Slip and fall prevention
- Back injury prevention
- Burn prevention
- Electrical Safety Lock Out/Tag Out

AlliantConnect

AlliantConnect is a web portal for various webinar trainings, white papers, articles, and links to insurance websites that discuss important topics that pertain to the exposures of a State and various public agencies. These resources will be made available to the State through a stream lined portal that can be accessed with a simple username and password.

Appraisal Services

Appraisals will be provided for all buildings valued \$5 million or greater on a five year rotation at no additional cost or at a minimum of \$225 per building.

1.5. Binding of Coverage and Submission of Claims

1. Contractor must not bind coverage on behalf of the State of Michigan without the signature of the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee.

The State of Michigan requires that all policies have a renewal date of October 1, to align with the State of Michigan's fiscal year. Deviations for this must be approved by the Program Manager.

2. Contractor must not accept any submission for claims against State policies without approval of the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee.
3. Contractor must provide notice to the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee within 2 business days in the event of a reported loss or claims attempt.

2. Acceptance

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

Insurance Broker Services activities will be deemed accepted when coverage is bound for the insurance policy in question, unless a written notice is given prior to binding.

All other Contract Activities, will be deemed accepted with payment of invoice for service or 45 days after receipt of invoice if notice is not provided of the rejection of Contract Activity.

3. Staffing

3.1. Contractor Representative

1. The Contractor has appointed a Contractor Representative, Justin Swarbrick, 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").
2. The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

3.2. Key Personnel

1. The Contractor has appointed an Account Manager, listed below, who will be directly responsible for the day-to-day servicing of the State of Michigan insurance policies.

The Account Manager(s) must have at least 3-years' experience working with the insurance policies contained within **Table 1 - Current Coverages** for public entities with insurance portfolios of similar schedule size to those within **Table 1 - Current Coverages**.

Jennifer Rodriguez | Account Manager | Newport Beach, CA

2. The Contractor has appointed the below listed Account Executives who will be directly responsible for the marketing of insurance policies contained within **Table 1 - Current Coverages** and consulting on topics related to the coverages within **Table 1 - Current Coverages**.

The Account Executive(s) must have at least 5-years' experience working with the insurance policies contained within **Table 1 - Current Coverages** for public entities with insurance portfolios of similar schedule size to those within **Table 1 - Current Coverages**.

Justin Swarbrick, First Vice President | Team Leader | Troy MI
Doug Wozniak, Senior Vice President | Casualty Specialist | Newport Beach CA
Mary Wells, Senior Vice President | Property Specialist | Newport Beach CA

3. The Account Manager and the Account Executive may be the same person, or the duties described may be split between two individuals in a way other than described so long as any person performing duties of an Account Executive meets the experience required. Together the Account Manager and the Account Executive are "Key Personnel."
4. Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 24 hours.
5. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.
6. Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$10,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$10,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$35,000.00 per individual.

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

3.3. Other Personnel

1. The Contractor must maintain Specialists, either on staff or as subcontractors, who will be available, within 24 hours' notice to Key Personnel, to consult and help place the coverages found within the **Table 2 - Other Coverages and Bonds**.

2. The Specialist(s) must have at least 5-years' experience working with the type of coverage or bonds in question. Key Personnel may serve as a Specialist so long as they meet this requirement.
3. If the State of Michigan finds the work or experience of the Specialists unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons. Upon receipt of the details, Contractor will assign another Specialist.

3.4. Disclosure of Subcontractors

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

1. 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.
2. The relationship of the subcontractor to the Contractor.
3. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
4. A complete description of the Contract Activities that will be performed or provided by the subcontractor.

4. Project Management

4.1. Meetings

The Contractor must attend the following meetings:

1. A Contract Kick-Off meeting within 30 calendar days of the Effective Date;
2. An annual renewal preparation meeting, where at least one Key Personnel comes to the current physical office of Program Manager to present marketing strategies and current market conditions.
3. An annual renewal presentation meeting, where at least one Key Personnel comes to the current physical office of Program Manager to present renewal quotes and options.

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

4.2. Reporting

The Contractor must submit, to the Program Manager, the following written reports:

1. Upon request, once per year Contractor must provide a report detailing the manner in which premiums charged for coverage is determined by schedules item/location, if applicable.
2. Contractor must report any commissions and aggregate placement value payments received under **6.4 Commissions and Aggregate Placement Value Payments**, within 30 days of received payment.
3. Within 30 days of the end of each State of Michigan fiscal year (October 1 – September 30), Contractor must submit a report to the Program Manager on activities generated by the Extended Purchasing Program (Standard Contract Terms, Section 8) and 1.3. Insurance Broker Services for Third Parties. The report must include:
 - The name of the entity,
 - The total premiums paid under this contract,
 - The total of other payments made to Contractor, and
 - The total amount of administrative fees paid to the State of Michigan.

The report should cover the previous fiscal year (October 1 – September 30). The first report must cover the period of time from the Effective Date through the following September 30.

5. Ordering

5.1. Authorizing Document

The appropriate authorizing document for the Contract will be a blanket purchase order and a purchase order.

5.2 Requests for Services

1. Requests for coverages or services covered under **1.1 Insurance Broker Services** and **1.2 Consulting and Training** must be made by the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee.
2. Requests for coverages or services covered under **1.3. Insurance Broker Services for Third Parties** must be made by the third parties and MiDEAL members.
3. Requests for services covered under **1.4. Additional Services** must be made by the Manager of DTMB-Procurement's Risk and Analytics Section, or their designee. However, such additional services may require a contract change notice issued by the Contract Administrator dependent on the cost and whether additional terms must be added.

6. Invoice and Payment

6.1. 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. Overtime, holiday pay, and travel expenses will not be paid.

6.2. Payment Methods

The State will make payment for Contract Activities by Electronic Funds Transfer (EFT).

6.3. Procedure

1. Invoices shall be submitted to the Program Manager for review and approval. Once approved, the Program Manager will submit for appropriate approvals and processing.
2. Payments for all coverages and services provided to the State of Michigan will be made to the Contractor; Contractor will then pay any insurance companies, wholesalers, or subcontractors.

6.4. Commissions and Aggregate Placement Value Payments

1. The Contractor is specifically prohibited from receiving commissions or aggregate placement value payments from the insurers as a direct result of placing any of the State of Michigan's insurance policies contained within the **Table 1 - Current Coverages**.
2. The Contractor may receive commissions and aggregate placement value payments as a direct result of placing any of the State of Michigan's insurance policies contained within the **Table 2 - Other Coverages and Bonds**.
3. The Contractor may receive commissions and aggregate placement value payments from the insurers as a direct result of work performed under **1.3. Insurance Broker Services for Third Parties** and **1.4. Additional Services**.

7. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$1,000 per day for each day Contractor fails to remedy the late or improper completion of the Work in Schedule A. If the State suffers what would have been a covered loss due to broker's negligence or omission, this provision does not limit State's right to pursue actual damage.

STATE OF MICHIGAN

Insurance Brokerage & Risk Management Consultant

SCHEDULE B PRICING MATRIX

1. Pricing must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State.

Insurance Broker Services, Consulting and Training	
<i>The State of Michigan requires Contractor to charge an annual fixed fee for the services provided under Sections 1.1. Insurance Broker Services and 1.2. Consulting and Training of Schedule A, STATEMENT OF WORK.</i>	
Year	Annual Fixed Fee:
Year 1	\$45,000
Year 2	\$46,250
Year 3	\$47,500
Year 4	\$48,750
Year 5	\$50,000
Total	\$237,500

Insurance Broker Services for Third Parties	
<i>The State of Michigan requires Contractor to charge MiDeal members (Standard Contract Terms, Section 8, Extended Purchasing Program), other State Departments and other third parties on a commission basis for the services provided under Section 1.3. Insurance Broker Services for Third Parties of Schedule A, STATEMENT OF WORK.</i>	
<i>This commission must be in the form of a % of premiums for policies placed.</i>	
<i>The total amount of premiums placed may vary greatly in size.</i>	
Premiums Amount	Commission Percentage on Premiums
Premiums \$50,000 or less	15% annually
Premiums \$50,001 to \$100,000	15% annually
Premiums \$100,001 to \$500,000	12.5% annually
Premiums Greater than \$500,000	10% annually

Additional Services	
<i>Prices charged for optional services provided under Section 1.4.</i>	
Service	Rate or Fee

<i>Loss Control Visits</i>	<i>\$150/per hour</i>
<i>Infrared Surveys</i>	<i>\$1,800-\$3,000/per day</i>
<i>Enterprise Risk Management</i>	<i>\$200-\$300/per hour</i>
<i>Fire Plan Review</i>	<i>\$150-\$200/per hour</i>
<i>Pre-Construction Fire Planning</i>	<i>\$150-\$250/per hour</i>
<i>Business Continuity Management</i>	<i>\$150-\$200/per hour</i>
<i>On Site-Custom Training</i>	<i>\$150-\$200/per hour</i>
<i>Program Development</i>	<i>\$150-\$200/per hour or priced on a project basis</i>
<i>Emergency Plan Mobile App</i>	<i>\$5,000 per plan</i>
<i>Appraisal Services</i>	<i>Beginning at \$225 per building or at no cost</i>



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“Contract”) is agreed to between the State of Michigan (the “State”) and Alliant Insurance Services, Inc. (“Contractor”), a Delaware corporation. This Contract is effective on May 5, 2017 (“Effective Date”), and unless terminated, expires on May 4, 2022.

This Contract may be renewed for up to three 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

The parties agree as follows:

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

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

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

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

- 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: Chelsea Edgett 525 West Allegan Lansing, Michigan 48913 EdgettC@michigan.gov 517-284-7017	If to Contractor: Justin Swarbrick 1050 Wilshire Drive, Suite 210 Troy, MI 48084 (248) 205-2931 jjswarbrick@alliant.com
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3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State: Chelsea Edgett 525 West Allegan Lansing, Michigan 48913 EdgettC@michigan.gov 517-284-7017	Contractor: Daniel Howell (415) 403-1426 100 Pine Street, 11 th floor San Francisco, CA 94111 dhowell@alliant.com
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State: Stephanie Epps 525 West Allegan Lansing, Michigan 48913 eppss@michigan.gov 517-284-7011	Contractor: Justin Swarbrick 1050 Wilshire Drive, Suite 210 Troy, MI 48084 (248) 205-2931 jswarbrick@alliant.com
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal 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 0.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimal 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>Minimal 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.
Professional Liability (Errors and Omissions) Insurance	
<u>Minimal Limits:</u> \$5,000,000 Each Occurrence \$5,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled 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 purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all insurance premiums and other payments made to Contractor under the Contract from MiDEAL members, and other third parties (including governmental subdivisions and authorized entities). Administrative fees will not be collected on payments made by the State. Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

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

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

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

8. **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) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

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.

9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership

through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

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

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

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

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

17. **Reserved**

18. **Reserved**

19. **Reserved**

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

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

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

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

22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with

the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

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

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

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

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

26. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

27. **Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
28. **Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
29. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
30. **Reserved**
31. **State Data.**
 - a. **Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
 - b. **Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or

otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.

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.

- d. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; 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. This Section survives the termination of this Contract.

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

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the

disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

33. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.

- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. Reserved

35. Reserved

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

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

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

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.
- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value;

or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
40. **Reserved**
41. **Reserved**
42. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, 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, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
43. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
44. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
45. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
46. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
47. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
48. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and expressly incorporated schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and

agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

51. **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.
52. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
53. **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.
54. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.