



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 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 **3**
 to
 Contract Number **210000001583**

CONTRACTOR	Pyramid Network Services, LLC
	6615 Towpath Road
	East Syracuse, NY 13057
	Matthew Bell
	913-530-5796
	mbell@pyramidns.com
	VS0194927

STATE	Program Manager	Danielle Stewart	DTMB
		517-897-2698	
		stewartd16@michigan.gov	
	Contract Administrator	Valerie Hiltz	DTMB
		(517) 249-0459	
		hiltzv@michigan.gov	

CONTRACT SUMMARY

ANTENNA SITE LICENSE AGREEMENT

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 12, 2021	August 10, 2032	2 - 5 Year	August 10, 2032
PAYMENT TERMS		DELIVERY TIMEFRAME	
		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		August 10, 2032
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$7,000,000.00	\$939,044.00	\$7,939,044.00		

DESCRIPTION

Effective April 10, 2024 this contract is adding funding necessary for the replacement of the tower at site 5802 in the amount of \$939,044.00.

The Program Manager is updated to Danielle Stewart, Phone: 517-897-2698, Email: stewartd16@michigan.gov. The Contract Administrator is updated to Valerie Hiltz, Phone: (517) 249-0459, Email: hiltzv@michigan.gov

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Central Procurement approval, and State Administrative Board approval on April 9, 2023.



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 Department of Technology, Management, and Budget
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CONTRACT CHANGE NOTICE

Change Notice Number 2
 to
 Contract Number 210000001583

CONTRACTOR	Pyramid Network Services, LLC
	6615 Towpath Road
	East Syracuse, NY 13057
	Matthew Bell
	913-530-5796
	mbell@pyramidns.com
	VS0194927

STATE	Program Manager	Brian Aprill	DTMB
		517-284-4087	
		aprilb@michigan.gov	
	Contract Administrator	Emily Fedewa	DTMB
		(517) 897-7321	
		fedewae3@michigan.gov	

CONTRACT SUMMARY

ANTENNA SITE LICENSE AGREEMENT			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 12, 2021	August 10, 2032	2 - 5 Year	August 10, 2032
PAYMENT TERMS		DELIVERY TIMEFRAME	
		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS
N/A

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$7,000,000.00	\$0.00	\$7,000,000.00		

DESCRIPTION

Effective 2/2/2023, please note the Contract Administrator has been changed to Emily Fedewa.

Contact Info:
 517-897-7321
 fedewae3@michigan.gov

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



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CENTRAL PROCUREMENT SERVICES
 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 1
 to
 Contract Number 210000001583

CONTRACTOR	Pyramid Network Services, LLC
	6615 Towpath Road
	East Syracuse, NY 13057
	Matthew Bell
	913-530-5796
	mbell@pyramidns.com
	VS0194927

STATE	Program Manager	Brian Aprill	DTMB
		517-284-4087	
		aprillb@michigan.gov	
	Contract Administrator	Joy Nakfoor	DTMB
		(517) 249-0481	
		nakfoorj@michigan.gov	

CONTRACT SUMMARY

ANTENNA SITE LICENSE AGREEMENT

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 12, 2021	August 10, 2032	2 - 5 Year	August 10, 2032
PAYMENT TERMS		DELIVERY TIMEFRAME	
		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$7,000,000.00	\$0.00	\$7,000,000.00		

DESCRIPTION

Effective 12/14/22, the attached changes are hereby incorporated into the contract.

Please note the Contract Administrator has been changed to Joy Nakfoor.

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

**CHANGE NOTICE #1 TO CONTRACT NO. 210000001583
DATED OCTOBER 12, 2021 BETWEEN
THE STATE OF MICHIGAN
AND PYRAMID NETWORK SERVICES, LLC**

The State of Michigan (the “State”) and Pyramid Network Services, LLC (“Contractor”) hereby agree that the above-referenced contract (the “Contract”) will be amended as follows:

1. In Section 4 “Program Manager” of the Standard Contract Terms, the Contractor’s Program Manager Jenine Renaud is being replaced with the following:

Chris Piatt
6615 Towpath Rd
East Syracuse, NY 13057
cpiatt@pyramidns.com
312-532-9264

2. In Section 50 “**Schedules**” of the Standard Contract Terms, the following “**Schedule C**” is added to the list and is attached hereto and hereby incorporated herein:

Document Name	Document Description
Schedule C	Detailed Work Plan Outline

3. In Schedule A, Section 2.1 “General Requirements” of the Contract, the following sub-section “C. Co-Location Management” is amended to remove the reference to Schedule C in sub-paragraph 1.c.iii. and now reads as follows:

iii. This Contract will not limit, alter, or otherwise affect in any respect, (i) the State's rights or relationship with any Existing State Licensees or any State Agency; or (ii) the right of any Existing State Licensee to renew an Existing Site License.

4. In Schedule A, Section 2.1 “General Requirements” of the Contract, the following sub-section “C. Co-Location Management” is amended to replace paragraph “3. Site License Agreements” with the following paragraph:

“3. Site License Agreements

- a. For Commercial State Sites and Public Safety State Sites, the State uses a Co-location License agreement. In addition, the State uses a Master and Site License agreement for large carriers with multiple site co-locations. The License agreement templates may be revised by the State as

necessary.

The State will be directly involved in the negotiations on the License agreements with potential licensee. The State of Michigan Attorney General will also be involved in aspects of the process, as required by law.

- b. For ASM Sites, the Contractor will need to provide a draft Construction License and Site License Agreement template for State review and approval.

All Construction and/or Site License agreements must comply with all applicable, federal, state and local laws, rules, regulations and requirements, including but not limited to those of the State of Michigan (e.g. Administrative Board Review, Tall Structure Act), its Authorities, the Federal Communications Commission, Federal Aviation Administration, Federal Highway Commission and National Environmental Policy ACT (NEPA, to the extent applicable).

5. In Schedule A, Section 4.1 “Contractor Representative” and in Section 4.4 “Key Personnel” of the Contract, the Contractor’s/ASM Program Manager Jenine Renaud is replaced with the following:

Chris Piatt
cpiatt@pyramidns.com
312-532-9264

6. In Schedule A, Section 4.7 “Security” of the Contract, the following sub-section “B. Security at State Sites” is amended to replace paragraph 1.a. with the following paragraph:

1. DTMB-MPSCS State Sites –

- a. Applicable MPSCS Tower Site Access Policy in effect at the time of installation or modification/amendment.

7. In Schedule A, Section 5.1 “Project Plan” of the Contract, paragraph 4 is amended to replace the reference to “Schedule G” with “Schedule C” which is attached hereto and hereby incorporated herein, and now reads as follows:

4. The Detailed Work Plan must, at a minimum include the following items:
 - a. All tasks, task responsibilities, procedures, sequences, time frames and decision points for all procedures for the Contractor, the State Program Manager and applicable State Agencies with respect to all of the items set forth in Schedule C.

SCHEDULE C
Detailed Work Plan Outline

A. Asset Inventory, Valuation of State Assets, and Compensation Structure

1. State asset inventory
2. Valuation of state assets and estimate of the gross and net earnings potential
3. Pricing / compensation structure for sites
4. State / Contractor compensation provisions
5. Barter and trade options

B. Customer, Stakeholder Relations, Marketing and Guidelines

1. Marketing plan, and implementation schedule for establishing third party agreements
2. Pre-licensing contact outreach process
3. Guideline / Manual for the licensing process
4. Local relations, including zoning and planning

C. Site Identification, Approval and Management

1. Site access process
2. Site identification and approval process
3. Contractor Management of On-site Process
 - a. Detailed process and work plan, including but not limited to:
 - b. Maintenance of safety of the public during all work and operations
 - c. Development of master and site license agreements
 - d. Monitoring all on-site activities
 - e. Public relations, including public notices, public hearings and representation of the project in local board reviews and hearings
 - f. Other related tasks and procedures
4. Permits, Certificates and other Approvals
 - a. Detailed process and work plan, including but not limited to:
 - b. Site assessments and surveys
 - c. Procurement of all necessary licenses
 - d. Conduct of title searches
 - e. Conduct of local zoning compliance searches
 - f. Conduct of site-specific agency authorization-to-license searches
 - g. Conduct of any required studies
 - h. Other related tasks and procedures
5. Design and Construction: Technical, Engineering and Development
 - a. Detailed process and work plan, including but not limited to:
 - b. Condition of sites
 - c. Design of sites
 - d. Co-location
 - e. Licensees and State's use of sites
 - f. State telecommunication systems
 - g. Existing tenants
 - h. Refurbishment, replacement, relocation of existing structures
 - i. Construction of new structures

- j. Installation, replacement, repair and maintenance equipment on existing, refurbished, reconstructed or new sites – except for any State Equipment on ASM Site
- k. Frequency interference
- l. Access
- m. Safety and security
- n. Environmental, aesthetic and related considerations
- o. Other related tasks and procedures

D. Compliance, Performance, Compensation and Other Management

- 1. Performance standards and provisions
- 2. Dispute resolution provisions
- 3. Process management, reporting requirements and meetings
- 4. Collection and monitoring of user fees
- 5. Monitoring and enforcement of master and site license agreements
- 6. Records and audits
- 7. Inspection of sites
- 8. Disposition of facilities at end of term
- 9. Other related tasks and procedures, including standard agreement provisions
- 10. Quality Assurance measures
- 11. Risk Assessment procedures



STATE OF MICHIGAN PROCUREMENT
 Department of Technology, Management & Budget
 525 W. Allegan St., Lansing, MI 48933
 PO Box 30026, Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000001583**
 between
 THE STATE OF MICHIGAN
 and

CONTRACTOR	Pyramid Network Services, LLC
	6615 Towpath Road
	East Syracuse, NY 13057
	Matthew Bell
	913-530-5796
	mbell@pyramidns.com
	VS0194927

STATE	Program Manager	Brian Aprill	DTMB
		517-284-4087	
	aprillb@michigan.gov		
	Contract Administrator	Jillian Yeates	DTMB
517-275-1131			
yeatesj@michigan.gov			

CONTRACT SUMMARY			
DESCRIPTION: Antenna Site License Agreement			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 12, 2021	August 10, 2032	Two, Five-Year	August 10, 2032
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input checked="" 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 inquiry bearing the solicitation #210000001383. Orders for delivery will be issued directly by the Department in accordance to Section 7.1, Authorizing Document.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$7,000,000.00

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name & Title

Agency

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Pyramid Network Services, LLC (“**Contractor**”), a New York Limited Liability Company. This Contract is effective on October 12, 2021 (“**Effective Date**”), and unless terminated, expires on August 10, 2032.

This Contract may be renewed for up to two (2) additional five (5) 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:

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

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

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

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

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

If to State:	If to Contractor:
Jillian Yeates 525 W. Allegan St. Lansing, MI 48933 yeatesj@michigan.gov 517-275-1131	Scott H. McCabe 6519 Towpath Rd. East Syracuse, NY 13057 smccabe@pyramidns.com 315-701-1301

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

State:	Contractor:
Jillian Yeates 525 W. Allegan St. Lansing, MI 48933 yeatesj@michigan.gov 517-275-1131	Ronald Brunozzi 6519 Towpath Rd. East Syracuse, NY 13057 rbrunozzi@pyramidns.com 315-278-1275

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

State:	Contractor:
Brian Aprill 7150 Harris Drive Dimondale, MI 48821 Aprillb@michigan.gov 517-284-4087	Jenine Renaud 6519 Towpath Rd. East Syracuse, NY 13057 jrenaud@pyramidns.com 314-922-6535

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 – Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor, at its sole expense, must maintain the insurance coverage identified below. 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	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	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.
Automobile Liability Insurance	
Minimum Limits: \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

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 twenty (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 five (5) business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

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

- 7. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 0.5% on all payments made to Contractor under the Contract including transactions with the MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card at: <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.

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

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.** 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, or as may be specified in Schedule A, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 13. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 14. Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of

complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

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

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

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

- 17. Reserved.**
- 18. Risk of Loss and Title.** Until final 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.

19. Warranty Period. The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Schedule A. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.

20. Terms of Payment.

The State has the right to dispute 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. Acceptance of 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.

The Contractor will disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS>. 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 Contractor to the State under this Contract.

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

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

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

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

rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

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

- 24. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **365** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b)

any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

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

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages.** **IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration,

or other proceeding (collectively, “**Proceeding**”) involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor’s viability or financial stability; or (2) a governmental or public entity’s claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

30. State Data. All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State (“**State Data**”); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.

31. Reserved.

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. Reserved.

34. Payment Card Industry Data Security Standard.

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- a. **Undertaking by Contractor.** Contractors that process, transmit, store or affect the security of credit/debit cardholder data, must adhere to the Payment Card Industry Data Security Standard (PCI DSS). The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.
 - b. **Cooperation to Notify of Breach.** The Contractor must notify the State's Contract Administrator, within 48 hours of discovery, of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. The review must validate compliance with the PCI Data Security Standard for protecting cardholder data. The Contractor must provide, at the request of the State, the results of such third-party security review. At the State's sole discretion, the State may perform its own security review, either by itself or through a PCI approved third party.
 - c. **Responsibilities for Costs Incurred.** The Contractor is responsible for all costs incurred as the result of the breach. Costs may include, but are not limited to, fines/fees for non-compliance, card reissuance, credit monitoring, and any costs associated with a card association, PCI approved third party, or State initiated security review. Without limiting Contractor's obligations of indemnification as further described in this Contract, Contractor must indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the breach.
 - d. **Disposing of Cardholder Data.** The Contractor must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. The Contractor must continue to treat cardholder data as confidential upon contract termination.
 - e. **Audit by Contractor.** The Contractor must provide the State's Contract Administrator with an annual Attestation of Compliance or a Report on Compliance showing the contractor is in compliance with the PCI Data Security Standard. The Contractor must notify the State's Contract Administrator of all failures to comply with the PCI Data Security Standard.
- 35. Reserved.**
- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.
- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

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- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. Prevailing Wage.** Contractor must comply with prevailing wage requirements to the extent applicable to this Contract.
- 41. Reserved.**
- 42. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 47. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless

the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

- 48. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 49. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 50. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Document Name	Document Description
Schedule A	Statement of Work
Schedule B	Pricing

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

CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

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

SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

Contract No. 210000001583

Antenna Site License Agreement

BACKGROUND

The State of Michigan has numerous sites across the State that serve as Towers and Antennas. The purpose of this Contract is for an Antenna Site Manager (ASM) for licensing selected State of Michigan lands and structures for wireless antenna sites and spaces. The Contractor is expected to manage, under State direction and approval, aspects of pro-active marketing, development, and licensing of State-owned antenna sites. Including managing the State's existing license agreements on behalf of State agencies, such as: Department of Technology, Management and Budget (DTMB), Michigan's Public Safety Communications System (DTMB-MPSCS), Department of Transportation (MDOT), Department of Natural Resources (DNR), Department of Michigan State Police (MSP), Department of Military and Veteran Affairs (DMVA), Department of Health and Human Services (MDHHS), and Department of Corrections (MDOC).

The service opportunities apply to both wire and wireless telecommunications and information management and involve all State agencies, particularly those with significant real estate and structural assets with potential for wireless antenna sites.

State of Michigan Antenna Site Assets and Available Asset Inventory

Assets are defined as State of Michigan owned land and/or associated structures that have the potential for being used as sites or space for wireless antennas. The asset or site potential is circumscribed by several factors, including but not limited to: (1) compatibility with market criteria and interest; (2) legal, regulatory and state policy utilization provisions permitting use, including effective rights of ownership and environmental considerations; (3) consistency with State telecommunication and other development policies; and (4) ability to come to agreement on legal, performance and accountability provisions (e.g. meeting local zoning requirements; compliance with federal standards; agreement on colocation compensation, ownership, construction, and timeframes).

The primary managers of State assets are DTMB, DTMB-MPSCS, MDOT, DNR, DMVA, MSP, MDOC, and MDHHS. State assets vary from: (1) individual sites or structures, including towers; (2) sites with significant acreage or complexes of structures; (3) extensive, dispersed or contiguous, land holdings under common ownership or management. For example, DNR manages in excess of 4 million acres throughout the State, and MDOT has jurisdiction over 9,600 miles of State highways.

DTMB-MPSCS, DNR, MDOT, and DMVA handle all aspects of their own licensing transactions and develop and maintain real property records and facilities. Types and scope of responsibilities range from a relatively small number of very similar transactions each year for some Departments, to DNR, which operate the largest land

management system in the State of Michigan. DTMB-MPSCS is responsible for all agencies other than DNR, MDOT, and DMVA.

SCOPE

The scope of this Contract includes, to the extent permitted by law and site utilization provisions, a Statewide Antenna Site Manager (ASM), with full wireless site development services, including the capability to: (a) actively market, evaluate, develop, manage, and operate Facilities on Sites for commercial wireless telecommunication purposes; (b) construct, operate, and own, at Contractor's sole cost and expense, all Towers, Facilities and Replacement Towers that are to be constructed and/or operated for commercial wireless telecommunication purposes on any State Property during the term of this Contract subject to the Contractor's determination in its sole discretion that such Towers, Facilities and Replacement Towers are economically feasible for Co-Location purposes; (c) manage and maintain State's existing commercial co-locations; (d) manage and maintain State's existing Public Safety co-locations, if requested; (e) negotiate new and renewal Site Licenses with State Licensees in consultation with, and subject to the sole approval of, the State; (d) negotiate and enter into Site Licenses with ASM Licensees; (e) collect for the State and ASM revenues from all License Fees or applicable charges and remit to the State the revenues during the term of this Contract, and (f) provide the management services during the term of this Contract. The ASM will have exclusive responsibility and liability for the integrity, safety and maintenance of all ASM Sites. Any agreements entered into will not confer ownership or possessory interest, except for rights specified in agreements, contracts or licenses.

The Contractor will: (1) Designate a single point of contact to be the ASM Program Manager for this Contract; (2) Coordinate the licensing and related activities for all State agencies; and (3) Recognize and accommodate the unique legal and procedural requirements (such as site access) of asset managing departments, such as DTMB, DTMB-MPSCS, MDOT, DNR and DMVA. Services will be provided to the licensees through a single point of contact and within agreed to timeframes and formats.

This Contract will not impair or otherwise affect the right of the State to develop, construct, and operate any State wireless telecommunications systems on State Property or allow, permit or license any federal, state, or local governmental agency to use State Property for telecommunication purposes. Any such license with another unit of government will not be subject to this Contract. This Contract does not include installation of either FM and/or AM onto Facilities.

1. Definitions

For purposes of this Contract, the following terms are defined:

- A. **All Licensees** means ASM Licensees, Existing State Licensees and New State Licensees collectively.
- B. **All State Licensees** means Existing State Licensees and New State Licensees collectively.

- C. **Antenna** means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
- D. **Application-** Can be either a preliminary (See Section B.2.a.) or formal (See Section B.2.b.).
- E. **ASM or Antenna Site Manager** means the Contractor.
- F. **ASM Licensees** means all third-party Licensees and State Agencies located on ASM Sites pursuant to ASM Site Construction Licenses between the State and the Contractor and Site Licenses between the Contractor and Licensees.
- G. **ASM Program Manager** means the person the Contractor designates in writing to manage this Contract on behalf of the Contractor.
- H. **ASM Sites** means State Property on which the ASM constructs, owns and operates a Tower, Facility or a Replacement Tower under a ASM Site Construction License between the ASM and the State.
- I. **ASM Site Construction License** means an executed ASM Site Construction License authorizing the Contractor to construct, own and operate a Tower, Facility or Replacement Tower on a ASM Site.
- J. **Certified Drawings** means drawings produced via computer aided design.
- K. **Co-location** means to place or install, mount, maintain, modify, operate, or replace wireless communications equipment or network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cabling, and coaxial and fiber optic cable, on or in the State's real or personal property or towers.
- L. **Commercial wireless telecommunications purpose** means a purpose that is exclusively or predominantly private, rather than public or governmental, in nature. It includes cellular, personal communications services (PCS), paging or other similar commercial wireless telecommunications services provided to third parties.
- M. **Day(s)** means business days, Monday through Friday from 8:00 a.m. to 5:00 p.m. ET, inclusive, except for holidays observed by the State.
- N. **Environmental Assessment** means an assessment conducted in accordance with the current American Society for Testing and Materials (ASTM) standards for Environmental Assessments, or other appropriate review of the environmental conditions at a Site.
- O. **Environmental Laws** means the statutes referenced in this Contract including, the Occupational Safety and Health Act, 29 USC 651 et seq, the Hazardous Materials Transportation Act, 49 USC 5101 et seq, any analogous State statutes, and any regulations or rules promulgated under each of them, each as amended and in effect from time to time.

- P. **Equipment** means any equipment owned by a Licensee, the State, or ASM, including but not limited to, antennas, radio transceivers, cellular frequency extenders, dishes, cables, equipment shelters, and any other ancillary structures and equipment installed and/or used at a Facility.
- Q. **Existing Site License** means any agreement between an Existing State Licensee and the State authorizing the Existing State Licensee to use a State Site for wireless telecommunication purposes.
- R. **Existing State Licensees** means all third parties that are located on State Sites as of the date of full execution of this Contract pursuant to an Existing Site License, lease, license, permit, easement, or other permission from the State.
- S. **Facility or Facilities** means any new or existing structure, including but not limited to, Towers, shelters, buildings, cabinets, foundations, and fencing located on or about a Site that is or may be used for commercial wireless telecommunication purposes. The term "Facility" or "Facilities" does not include Equipment.
- T. **Gross Revenues** means all License Fees and holdover fees paid by all Licensees for the use of Facilities and Sites under license pursuant to this Contract including any License Fees paid by the State.
- U. **Hazardous Condition** means the release, or the threatened release, or the presence, use, treatment, storage or disposal of, any material or substance regulated as a hazardous, toxic or dangerous substance, pollutant or waste under federal, state, or local environmental laws, rules, or regulations. Hazardous Condition includes, but is not limited to, any activity causing, or condition involving the presence in soil, surface water or ground water, of: (i) any Hazardous Waste, Pollutant, or Hazardous Substance as defined in the Resource Conservation and Recovery Act, 42 USC 6901 et seq, as amended (RCRA) and any rule or guideline promulgated thereunder; (ii) any Hazardous Substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 et seq, as amended, (CERCLA) and any rule or guideline promulgated thereunder; (iii) any toxic substance or hazardous chemical as defined in the Toxic Substances Control Act, 15 USC 2601 et seq, as amended, and any rule or guideline promulgated thereunder; (iv) the discharge of any pollutant under the Federal Water Pollution Control Act, 33 USC 1251 et seq, as amended, and any rule or guideline thereunder; (v) any petroleum or refined petroleum product, or other petroleum hydrocarbon;(vi) asbestos; (vii) polychlorinated biphenyls; (viii) any pollutant or hazardous air pollutant as defined under the Clean Air Act, 42 USC 7401 et seq, as amended, and any rule or guideline promulgated thereunder; and (ix) any substance or waste regulated under any other applicable environmental law, including but not limited to the Michigan Natural Resource and Environmental Protection Act, MCL324.101 et seq; MSA 13A.101 et seq (MNREPA), and the Michigan Public Health Code, MCL 333.1101 et seq; MSA 14.15(1101) et seq and any rule or guideline promulgated thereunder.

- V. **Hazardous Substances** will be as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 et seq, and any subsequent or amended regulation thereto and as defined in the Michigan Natural Resources and Environmental Protection Act, MCL324.101 et seq, and any subsequent amendment thereto.
- W. **Hazardous Wastes** will be as defined in the Resource Conservation and Recovery Act, 42 USC 6901 et seq, and any subsequent or amended regulation thereto.
- X. **Interference** means any unwanted signals that interfere with the intelligibility of desired signals.
- Y. **Licensee** means a third-party carrier or other user of a Facility pursuant to a Site License or Existing Site License granted by the State or in case of a ASM Site, granted by the Contractor.
- Z. **License Fees** means the fees that Licensees are required to pay for use of a Site pursuant to a Site License or Existing Site License. License Fees do not include costs of constructing a new Facility or improving an existing Facility, installing Licensee Equipment at a Site, or charges for electricity. License fees include holdover fees.
- AA. **Management Fee** means the amount that the Contractor is entitled to receive in connection with New Site Licenses with New State Licensees for State Sites.
- BB. **New State Licensees** means all third-party Licensees, excluding any State Agencies, that are located on State Sites after the Contract Start Date.
- CC. **Pollutants** will be as defined in the Federal Water Pollution Control Act, 33 USC 1251 et seq, and including any subsequent or amended regulations.
- DD. **Public Safety wireless telecommunications purpose** means a purpose that is exclusively or predominantly public or governmental, rather than private, in nature.
- EE. **Replacement Tower** means a Commercial Wireless Telecommunications Tower and/or Facilities constructed by the Contractor to replace an existing Tower or other Facility pursuant to a ASM Site Construction License.
- FF. **Site** means State Sites and ASM Sites collectively.
- GG. **Site License** means a Site License agreement, authorizing ASM Licensees or New State Licensees to use a Site for Commercial or Public Safety Wireless Telecommunications purposes.
- HH. **State Agencies** means the State of Michigan, including, but not limited to, its departments, agencies, boards, commissions, officers, employees and agents.
- II. **State Equipment** includes, but is not limited to, any Equipment to be used as part of a State communications system, ITS Cameras, License Plate Readers, Transportation Equipment, and other new technologies as developed.

- JJ. **State Program Manager** means the person the State to manage this Contract on behalf of the State.
- KK. **State Property** means all present and future real property owned by and under the control of the State, including all buildings and other structures on such real property. State Property does not include property leased by the State, property owned by the State Building Authority, property owned by any university, college, or community college, or any other parcel or group of property that the State may elect to exclude from Commercial Wireless Telecommunications use during the term of this Contract. State Property also does not include ASM Facilities and Replacement Towers as set forth in this Contract.
- LL. **State Sites** means State Property on which: (i) State-owned Facilities exist at the time of the full execution of this Contract; and (ii) on which State-owned Facilities are constructed during the term of this Contract.
- MM. **Tower** means a wireless telecommunications tower constructed on State Property.

2. Requirements

2.1. General Requirements

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

A. Overall Considerations

1. Local Concerns, Requirements and Involvement

The Contractor must address throughout the Contract local concerns that relate to the type of State, ASM and local relationships. Local concerns include but are not limited to compliance with zoning requirements, independence of local decision-making authority and processes (e.g. preemption of local laws, regulations, powers and processes); the perceived effects of antenna sites on property values; and health and safety issues. Local concerns and requirements will be addressed on a case by case basis as they arise, however, for any sites requiring zoning or permitting Contractor will approach all local jurisdictions proactively, and use a zoning approach to mitigate and minimize any and all local concerns in advance through communication, empathy for their concerns and application of best practices in design and process planning.

2. Licensing and State Property Interest

The Contractor must manage licensing and the State's property interests through the use of licensing State assets. Any agreements or contracts entered into will not confer any ownership or possessory interest, except for the rights granted in the agreements, contracts, or licenses, in real property, owned by or under the jurisdiction of the State and as permitted

by law. No exclusive rights are granted to the Contractor, unless specifically stated in writing in the agreement.

3. Compliance with Federal Requirements

The Contractor, at its sole expense, must comply with State and Federal laws and regulations, including design, placement, construction, maintenance, modification of sites, fixtures and structures. These regulations include, but are not limited to, provisions involving safety (e.g. FCC and FAA), environment (e.g. EPA), as well as the provisions of the Telecommunications Act of 1996.

4. State Public and Private Sector Telecommunication Needs

The Contractor must have a process to identify State government current and future technology needs and how they will be incorporated. The process must include project design and planning and how they plan to address the needs of the State. The Contractor must incorporate agency specific goals, service needs and site utilization provisions in the overall State level objectives and work plan. Contractor will receive regular communication from the State detailing technology needs.

5. Site Placement and Development Options

There are three separate or combined site development options or scenarios, all of which must be consistent with local zoning requirements.

- a. Placement of antennas on existing structures and/or;
- b. Reinforcement and Replacement of structures and/or;
- c. New construction by Contractor.

6. Conflicts of Interest

The Contractor must anticipate and plan for potential conflicts of interests, including with Site Licensees. The Contractor must have a plan for how to identify these conflicts and avoid them. The ASM will be required to identify any business interests, including any affiliate or subsidiary organizations, relationships, agreements or pending proposals that could place them or their affiliate or subsidiary organizations in a conflict of interest, or in a conflict of interest with the site license applicants or holders.

7. Co-Location

The Contractor must have a robust marketing plan, compensation structure parameters, and a negotiation process to make State Facilities and space co-location a priority over any Contractor owned towers and/or facilities.

8. Site License agreement Negotiation

The Contractor must have a negotiation process with the third-parties, including the development and use of a base compensation structure, and types of incentives that may be considered.

9. Site Use

All State Sites and ASM Sites will be used by Licensees and ASM only for the installation, operation, maintenance, and replacement of the Equipment, along with associated other passive or active electronic equipment and mounting structures, including Towers and Equipment shelters, as specified in the Site Licenses, ASM Site Construction Licenses or Existing Site Licenses.

Any uses not specifically authorized in this Contract, Site License, or ASM Site Construction License will not be implemented without the State's prior written approval. Any such use 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 (See Standard Contract Terms, Section 23).

The State must be allowed to inspect the Facilities at all stages at the ASM Sites. The State will provide notice to the ASM of the inspection five (5) days in advance. The inspection will occur during normal business hours.

The ASM, at its sole cost, will provide for a professional inspection of all ASM Sites under this Contract every five (5) years after the date of construction of a Facility on a ASM Site. Inspections must be performed by firms with at least three (3) years of inspection experience and in accordance with ANSI EIA/TIA-222-H requirements, or the most current version at the time of construction or site modification, including any exceptions allowed based on the age of the tower and foundations.

Before any equipment is added to a site, regardless of the current loading, the ASM must have a structural analysis of the Facility performed prior to installing any additional Licensee's Equipment. The structural analysis will include the foundation of the ASM Site, and any additional Licensee's Equipment will not be installed if the structural analysis fails for tower and/or foundation issues that cannot be remediated.

The ASM must promptly provide a copy of the results of the inspections and structural analysis to the State at no cost to the State. Thereafter, the ASM may continue to have Licensee's Equipment installed at the Facility in accordance with the original design capacity or any modifications thereto as required in the results of the structural analysis.

B. Site Development of Commercial Telecommunication Structure(s)

The Contractor must provide deliverables and services for site development, construction and maintenance for both State Sites and ASM Sites. The following tasks outline the responsibilities and requirements of the Contractor.

1. Site Inventory and Valuation of State Assets

- a. The Contractor will use its professional expertise to identify and select Sites for potential commercial telecommunications development with input from the State. A current list of existing sites, including any 3rd party tenancy, will be provided to the Contractor, either from the State or from the previous Vendor during the transition phase. The Contractor will scrub all lists and compile all data into a customized project management tool/database (“Pyramid Network Tracker” or “PNT”), which will include pertinent data on each site. The Contractor will continue to develop the site list throughout the term of this Contract. The database will include access for the State and will be updated in real time as new information is learned on each site. The Database will also include information on current tenancy as Contractor adds new tenants and will be used on all required management meetings. The maintained site list will be used to identify, to the extent possible, potential co-location Sites. Such lists may be revised in the future, as agreed to by both parties. These lists are not a Site inventory of qualified Sites. This list will be kept in a modifiable excel format.

- b. The survey of Sites identified as potential co-location Sites will document the specific attributes of the State Property. Contractor will assign site surveyors to the State of Michigan project as needed. The survey coordinators will provide recommendations on site improvements necessary to accommodate co-location and maximization of the use of each Site for Commercial Wireless Telecommunications purposes. It may also identify potential coverage issues important to the wireless carriers at the Site. The State Program Manager will aid accessing the Sites and as feasible, will provide personnel familiar with the Site.
 - i. Site Access
 - a) During development of the Detailed Work Plan (See 5.1), and before the Site Survey Coordinators access the site, a mutually agreeable site access procedure will be developed, taking into account the specific requirements of State Agencies. Each State Agency may also have special policies for site access and

may also be updated when necessary.

- b) The ASM may access the sites only in accordance with the access procedures and/or guidelines established as described above. The ASM may not enter upon any other area of State Property that is not generally open to the public without the prior written consent of the State Program Manager, unless the ASM is escorted by the State Program Manager or other State personnel. The ASM will coordinate access to the sites for the purpose of inspection and evaluation with the State Program Manager and the State Agency having jurisdiction over the site. The ASM must fully and strictly comply with any access procedures or protocol specified in writing by the State Program Manager or the applicable State agency.

- c. The Site surveys will consist of the following information:
 - i. Site Survey Form
 - ii. Data Worksheet
 - iii. Site Directions
 - iv. Street Map
 - v. Photographs
 - vi. USGS Map
 - vii. Additional Information required by the ASM or the State

- d. Incorporation of Site Data. Site data will be incorporated into the ongoing Site List. This computer data will be made available to the State and Contractor personnel throughout the Contract Term. All Sites in the Site List will be assigned Facility Identification numbers (FID #'s) and a State provided identifier. The State must have the right and ability to access and download the State Site data incorporated at any time. The State must be given notice of all updates to the State Site data. The Contractor will use their PNT tool/database to give the State full time/real time access, including dashboard views and site-specific data views.

2. Proposed Site Development and Process

When the Contractor proposes a site location, whether a State Site or ASM Site, the Contractor will submit to the State Program Manager an application for development of a site as described below. The ASM will be responsible for initial identification of State Property for potential use as a Site under this Contract. The State retains sole discretion over all Sites, and the State's denial of any proposed Site or Site License will be legally

final, i.e. not subject to judicial review, and will not be grounds for alleging bad faith or impossibility of performance.

a. Site Identification and Preliminary Review Applicable to All Sites

- i. Upon identifying a proposed Site, the ASM Program Manager will submit to the State Program Manager an Application for Preliminary Site Review (Application) for the proposed site that specifies the location and size of the proposed Site and the potential access and utility route(s) to the proposed site. The Contractor will work with the State Program Manager to develop a standard Application Document for Preliminary Review requests.
- ii. The State will use its best efforts to complete its review of the Application for Preliminary Site Review and notify the ASM Program Manager of its decision to preliminarily approve or deny a Site within thirty (30) days following receipt of the Application.
- iii. A decision by the State to approve an Application will not obligate the State to subsequently approve a Site License for a State Site or a ASM Site Construction License for an ASM Site.

b. Application for Site License for State and ASM Sites

After the State approves the Application for Preliminary Site Review, and in the case of MDOT, the Contractor has received an approved formal MDOT permit, the Contractor will seek approval for a Site License (Formal Application). This will be completed by submitting an Application for Site License as described below.

- i. The following information, unless waived in writing, must be submitted to the State Program Manager and included in the Application for a Site License:
 - a) An Environmental Assessment, if required by the State, including any data derived from any sampling conducted at the Site signed and sealed by a professional licensed by the State. Any Site with environmental contamination exceeding the residential criteria for any contaminant established by the Michigan Department of Environmental, Great Lakes & Energy will not be licensed pursuant to this Contract. Either the State or the ASM may reject a proposed Site based on the findings of the Environmental Assessment.
 - b) Draft certified Site plans and construction plans.
 - c) Proposed equipment and antenna description, including make, model, height and design specifications.

- d) Wetland study
 - e) List of local, Federal, and State approvals, if any, that will be required.
 - f) An analysis of the load/integrity of the structure on which the antenna or equipment will be mounted, signed and sealed by a professional engineer licensed by the State. The engineer must certify that this analysis meets all engineering standards, including ANSI EIA/TIA-222-H requirements, or the most current version.
 - g) Proposed route for access and electricity (metered or nonmetered).
 - h) Title Insurance Commitment and fifty (50) year Title Search.
 - i) Boundary survey prepared by a licensed surveyor.
 - j) Certification that a licensee has conducted an intermod study and will eliminate any interference with existing wireless telecommunication equipment and or other systems on or in close proximity to the Site. Close proximity is determined on a case-by-case basis depending on site location and level of interference.
 - k) If mapping of the Site is required, it will be the responsibility of the Contractor to conduct and bear the cost for the required mapping service. The Contractor may include the cost as a pass-through fee to the applicant.
- ii. An application for all Site licenses must be accompanied by an application fee in the amount of \$1,500.00 and must be filed with the State Program Manager. The application fee must be paid by certified check and be made payable to the State of Michigan. The application fee may be paid by the Contractor or by the applicant as a pass-through fee. The State has the discretion to waive the application fee on a case by case basis.
- c. **Application Review**
The State will use its best efforts to complete its review of the Application for a State Site within thirty (30) days and for an ASM Site within ninety (90) days following receipt of a complete Application. The State will notify the Contractor whether the application is approved or denied and provide any conditions placed upon the use of the Site.
- d. **Approval or Denial of an Application**
- i. The State's approval of the Application will be considered approval of any required materials. The State has the right to waive any or all required materials in writing. The State will have

sole and final approval of all applications for New State Licenses or ASM Site Construction License submitted to the State. Issues the State may consider in determining whether to issue a Site License or ASM Site Construction License include, but are not limited to:

- a) Compatibility of the proposed use with the existing and future uses of the Site and property in the vicinity of the Site.
 - b) The mission of the State Agency under whose jurisdiction the Site is located.
 - c) The Public health, safety, and welfare of the State; and
 - d) The potential revenue.
- ii. The terms of the Site License will be for not more than ten (10) years with two (2) five-year (5-year) extensions for State Sites.
 - iii. The term of a ASM Site Construction License will be for not more than ten (10) years with two (2) five-year (5-year) extensions, with such extensions at the ASM's sole option.
- e. **Site Access**
- i. Licensees may only access a Site pursuant to the access procedures and conditions, if any, specified in the Site Licenses or Existing Site Licenses. The ASM must fully comply with the access procedures and conditions specified in such Licenses.
 - ii. The ASM must coordinate Site access by Licensees in order to monitor and assure compliance with the procedures and conditions specified in the Site Licenses or Existing Site Licenses at all Sites with existing or new State Licensees.

3. **Site Development and Process**

Upon the issuance of a Site License, or ASM Site Construction License authorizing use of a Site, the New State Licensee or the ASM may develop and use the Site in the manner authorized in the Site License or ASM Site Construction License. No Site may be developed or utilized unless the State has issued a Site License or ASM Site Construction License authorizing use of the Site. The Contractor will commence development of the Site according to the requirements and guidelines described below.

a. **In General**

- i. The State makes no representation or warranty, either express or implied, to the ASM regarding the use, operation, safety, environmental condition, title or fitness for a particular purpose of the Sites, and the ASM's use of the Sites will be on an "as is" basis.

- ii. The Contractor will be solely responsible for all costs it incurs to review, inspect and assess potential Sites and will make no claim against the State for any costs, damages, or expenses arising from the condition of the Site or its suitability for Commercial Wireless Telecommunications purposes.
 - iii. The ASM must promptly notify the State in writing upon learning of the following conditions and before disturbing such conditions:
 - (i) any Hazardous Condition at the Site such that remediation may be required pursuant to any applicable laws, rules or regulations or
 - (ii) any unusual physical condition at the Site that differs materially from those ordinarily encountered and generally recognized by the ASM as inherent in work of the character provided for in this Contract.
- b. **Requirements for State Sites After Issuance of a Site License**
After the State approves the Site license for a State Site, but no later than ten (10) days before the Contractor begins any work, the Contractor must provide the following information to the State Program Manager:
- i. Final Site plans, construction or installation plans, signed and sealed by a professional engineer licensed by the State certifying that it meets all engineering standards.
 - ii. A schedule of construction or installation
 - iii. Names of contractors who will fabricate and erect and/or install equipment.
 - iv. The approximate construction and installation costs of the equipment, if required by the State Program Manager
 - v. Copy of any and all permits required by law.
- c. **Requirements for ASM Sites After Issuance of a ASM Site Construction License**
After the State approves the ASM Site Construction License, but no later than fifteen (15) days before the Contractor begins any work, the Contractor must provide the following information to the State Program Manager:
- i. Final Site plans, construction plans, and Tower description signed and sealed by a professional engineer licensed by the State of Michigan.
 - ii. The construction schedule.
 - iii. Names of contractors who will fabricate and erect the Tower equipment building and/or install Equipment.

- iv. A certified boundary line survey by a surveyor licensed by the State of Michigan.
- v. The number of equipment buildings.
- vi. Description of any security measures.
- vii. A list of any State Agency equipment the State requested be accommodated, the elevation, and installation specifications.
- viii. Insurance Certificates.
- ix. Copy of any and all permits required by law.
- x. If applicable, documentation showing that the fuel tank for the generator is an above ground unit that has been approved by both the State Agency having jurisdiction over such tanks and by the State Program Manager.

d. Permits, Certificates, and other Approvals

- i. The Contractor must obtain all necessary permits, including an approved permit from MDOT before a site license is granted, certificates and other approvals; procure licenses; conduct title searches; conduct local zoning compliance searches; conduct site specific agency authorization to license searches; and conduct any required studies.
- ii. The Contractor must ensure that the any Licensee obtains required permits, including Work Permits, construction permits, code compliance certificates for all work performed, and coordinates discussion to obtain all approvals with other governmental entities.
- iii. The Contractor's ASM is required to monitor, coordinate and manage compliance with applicable local (e.g. zoning) and federal (e.g. FCC, FAA) government provisions. Local zoning applies to the installation of new structures or towers on State-owned real estate, or modifications to State-owned infrastructure intended to either partially or exclusively serve the private sector. If the Licensee uses a 3rd party, Contractor will ensure their Project Manager is involved in the Site Development process points through all regulatory, zoning and permitting.
- iv. The Contractor will be responsible for public relations, including public notices, and public hearings. All communication must be approved by the State Program Manager. The Contractor must notify the State of any public hearings where it may be appropriate for a representative of the State to be in attendance.

- v. In the event that additional land rights may be required to provide access to project facilities, the Contractor will be responsible for obtaining the additional rights.
 - vi. The ASM will be responsible for all Site surveys, including real estate property line surveys, for all communications installations developed or upgraded as a result of this Contract.
 - vii. The Contractor, or licensees, will be responsible for performing and assuming all costs associated with all studies required to comply with the NEPA, if applicable, and any other environmentally related requirements.
 - viii. If any local concerns, opposition to, or support of, a Site or Facility comes to the attention or notice of either the ASM or the State, then notification will be provided to the other party of the concern. The ASM will provide the State Program Manager with a plan to address any such concerns or opposition at least ten (10) days prior to any release or disclosure.
- e. **Bonding**
The ASM must deliver to the State Program Manager prior to beginning construction on any Facility at a ASM Site a Labor and Material Blanket Bond with an aggregate of \$1,000,000.
- f. **Construction Of Facilities And Replacement Towers At ASM Sites**
- i. Upon completing construction of a Facility or Replacement Tower on a ASM Site, the ASM must provide to the State Program Manager with final as-built Site plans and Certified Drawings, stamped by a professional engineer licensed by the State certifying that it meets all engineering standards, detailing the Tower construction and all Site improvements (Close Out Package). The Contractor will provide a hard copy of the Close Out Package upon request from the State Program Manager.
 - ii. Upon completion of the new ASM Site, the ASM must promptly restore all disturbed areas as nearly as possible to their original condition or described in the ASM Site Construction License.
 - iii. The ASM must provide New State Licensees and ASM Licensees with a list of requirements for the particular Site prior to any installation of Equipment by such Licensees. The ASM will be responsible for ensuring that the Equipment installed complies with such requirements.
 - iv. Modifications/Amendments to Site Locations: If any additional equipment is added beyond the original application, the Contractor must submit an amendment to the State Program

Manager, with a structural analysis. The structural analysis will include the foundation of the Site, and any additional equipment will not be installed if the structural analysis fails for tower and/or foundation issues that cannot be remediated.

- v. If a Facility is required or requested by the State to be removed, relocated or replaced due to the order of any court or governmental regulatory agency or for other governmental purposes due to operational needs of the State, the ASM will work with the State and the Licensees to perform such removal, relocation or replacement at no cost to the State. In the case of ASM Facilities, removal, relocation or replacement will be governed by the ASM Site Construction License and be at the sole expense of the ASM as provided for in the terms of the ASM Site Construction License. The State's preference is to reuse existing sites whenever possible to avoid additional disturbances to State owned lands.
- vi. The State has the right, upon six months written notice to the best of the State's ability, to require a Licensee under State License, or the ASM under a ASM Site Construction License to remove and/or relocate a Facility or Equipment due to the operational needs of the State. The Site License and the ASM Site Construction License must provide for the State's right to require removal and or relocation. All costs associated with relocation will be the ASM's or the Licensee's responsibility. The State will work with Contractor to find an alternative Site. State Licenses must provide for termination without compensation if alternative State Sites are not available. The ASM Site Construction License must provide that ASM Site Construction License must terminate if alternative Sites are not available.
- vii. The State has the right, with six months written notice, to require a Licensee under Site License for State Sites or the ASM under a ASM Site Construction License to remove and relocate a Facility or Equipment due to the sale or discontinued use of the Facility or State Property. The State will use its best efforts to find an alternative Site. Site Licenses for State Sites must provide for termination without compensation regardless of whether an alternative Site is available. The ASM Site Construction License must provide that the ASM Site Construction License must terminate if an alternative State Site is not available.

- viii. If ASM requests the relocation or replacement of a Facility, and such request is approved by the State, ASM will be responsible for all costs related to the relocation or replacement of the Facility.
- ix. The ASM may not relocate a Facility after installation without prior written approval from the State Program Manager. Any relocation is subject to the Site application and approval process.

4. Continued Operation of Sites

a. Taxes and Fees

- i. Contractor must timely pay, from the execution of the ASM Site Construction License and throughout the duration of this Contract, all property taxes, impositions and assessments for the use of the ASM Site, which are levied or assessed against the ASM Site. The ASM is responsible for and must timely pay: (1) all ad valorem property taxes imposed under the General Property Tax Act (GPA) 1893 PA 206, MCL 211.1, et seq., or any subsequent act of the legislature, upon the real or tangible personal property licensed under provisions of this Contract; (2) all taxes imposed under provisions of 1953 PA 189, MCL 211.181, or any subsequent act of the legislature upon the ASM for the use of the ASM Site. Nothing in this Contract will require ASM to pay any taxes on State Sites or on State Property except ASM Sites and then only such State Property identified in the applicable ASM Site Construction License.
- ii. Upon request, the Contractor must provide to the State Program Manager evidence of any payments made as a result of performance of this Contract.
- iii. The State will not be responsible for any taxes or assessments still owing at the end of the Contract term.

b. Utilities

- i. The State will not be liable for utility charges incurred by Licensees, or the ASM.
 - a) The ASM must contract in its own name, and fully and promptly pay for all water, gas, heat, light, power and communication services, including but not limited to telephone services, broadband internet, and any other public utilities of every kind that ASM requires for performance throughout the Term of this Contract.
 - b) ASM or Licensee utilizing the utility, will pay all expenses of heat, light, and water or for the setting and repairing of meters

in and for any Facilities and Replacement Towers at ASM Sites.

- ii. Neither the ASM nor any Licensee may authorize a utility company to place a utility line on a Site or other State Property. Only the State Agency having jurisdiction over the State Property may authorize use of the land for utility purposes. Any utility company must obtain an easement or permit from the State prior to any installation, maintenance and/or repair.
 - iii. The Site Licenses for New State Licensees and ASM Licensees must require such Licensees to have electrical current meters installed at each applicable Site unless the Site License specifically provides otherwise. The State will have no liability for the cost of installing, maintaining, replacing or removing such meters. The cost of installing, maintaining and repairing such meters and all corresponding utility charges will be the responsibility of the New State Licensees, the ASM Licensees, or the ASM.
 - iv. The Existing State Licensees at State Sites will be responsible for paying all of their utilities consumed in operating their Equipment. The Existing State Licensees will also be responsible for all costs associated with separate metering of their electrical use and the installation and operation of backup generators that the Existing State Licensees determine are necessary with respect to their equipment.
- c. **Operation of Communication Installations at Sites**
- i. Except for Equipment owned by the State or Existing State Licensees, the ASM will have exclusive responsibility of Licensees' Equipment at all Sites for: (a) frequency coordination and acceptability; (b) establishing standards and practices consistent with, and necessary for, the avoidance or elimination of Interference; (c) engineering specifications; (d) ensuring that such Licensees warrant the structural soundness and integrity of their Equipment at State Sites; (e) structural integrity of ASM Sites; and (f) determining the acceptability of Equipment.
 - ii. In the event that the State or an Existing State Licensee desires to modify or otherwise change its Equipment or frequency, the State will notify the ASM so as to not interfere with the Equipment, systems or operations of other Licensees at or in close proximity to the Site. The ASM must make recommendations to the State as to how to eliminate any Interference that develops.

- iii. The Site License must provide that, if the Interference cannot be corrected, the interfering Licensee must stop operation of the Equipment until such time as the Interference is eliminated.
- d. **Maintenance of Site**

The Contractor must maintain or monitor maintenance of each communications installation developed or upgraded as a result of this Contract.

 - i. State Sites
 - a) After a New State Licensee installs its Equipment, the ASM must monitor each Site License on a State Site to assure that each Licensee remains in compliance with generally accepted engineering practices, all applicable FCC/FAA rules and all other applicable Federal, State and local laws, rules and regulations. The ASM will make recommendations with regard to repairs necessary to keep the Site and access route in good and tenantable condition to remain in compliance with generally accepted engineering practices, all applicable FCC/FAA rules and all other Federal, State and local laws and regulations.
 - b) ASM will do on-site inspections of each Site at least once a year, and will make notations of any repairs or upgrades needed at each Site. The State will maintain responsibility for such compliance and will maintain sole discretion over such maintenance and repairs. The ASM's responsibility as to the State or any Existing State Licensee at a specific State Site begins upon the installation of a New State Licensee at that Site. The State will maintain final approval of all standards and/or practices for State Sites and will have the sole right to enforce the requirements of the Site Licenses for a State Site.
 - ii. ASM Sites
 - a) The ASM will have exclusive responsibility and liability for the integrity, safety and maintenance of all ASM Facilities. The ASM will be responsible for performing all repairs necessary to keep improvements on the ASM Sites and easements or other access to the ASM Sites in good and tenantable condition to remain in compliance with generally accepted engineering practices, all applicable FCC/FAA Rules, and all other applicable federal, state and local laws, rules and regulations.
 - b) The ASM will have the right to enforce the requirements of any Site Licenses for a ASM Site.

- iii. State's Use of ASM Sites - the State may request that State Equipment be installed upon an ASM Tower. The State Program Manager will notify ASM in writing of the State's desire to place State Equipment on the Tower at the Site. Contractor will work with the State to determine what, if any, additional costs/fees would be contributed to the vertical real estate.
- e. **Landscaping of Sites**
- i. The Contractor must develop landscaping plans that include a method of minimizing the visual impact of each structure or tower proposed. The Contractor must obtain the State's final approval of the landscaping plans and will be required to alter those plans as necessary to address reasonable public concerns.
 - ii. The Contractor must maintain and preserve the aesthetic appearance and historic integrity of any ASM Site.
- f. **Environmental**
- i. The ASM must fully comply with all applicable federal, state, and local Environmental Laws, rules, regulations, and ordinances.
 - ii. Neither ASM, the State nor a Licensee will bring onto any Site, Facility, or other State Property any Hazardous Substance, Hazardous Waste, Pollutant, asbestos, polychlorinated biphenyls (PCBs), petroleum product, or other fuel (collectively "Environmental Hazards"). The ASM will not construct, or cause to be constructed, any type of underground storage tank system on any Site without obtaining the prior written approval of the State Program Manager. Any underground storage tank system that is constructed at a Site must meet all applicable State and Federal standards. The ASM will be responsible for ensuring compliance of underground storage tank systems constructed on ASM sites. The State will be responsible for ensuring compliance of such underground storage tank systems with all applicable Environmental Laws and for removing such systems at State Sites.
 - iii. In the event the ASM, the State, or any affiliate, agent, employee, or contractor of either, introduces any Hazardous Condition to any Site directly or indirectly, the party who introduces such Hazardous Condition will be solely responsible for removing such introduced materials and for remediating the Site.
 - iv. The Contractor agrees that the Work may be subject to the provisions of MNREPA and may require the preparation of environmental reports or consideration of potential environmental

impacts under MNREPA or the National Environmental Policy Act, 42 USC 4321 et seq, ("NEPA").

- v. This provision will survive the expiration or earlier termination of this Contract.

5. Title to Facilities, Equipment, and Real Property

a. Title to Facilities

- i. The State will remain the legal and equitable owner of any State-owned Facilities on State Property.
- ii. The ASM will be and remain the legal and equitable owner of any Facilities on ASM Sites that it constructs on State Property pursuant to a ASM Site Construction License.

b. Title to Equipment

The State, ASM and each Licensee owns the Equipment that they install on any Facility unless otherwise agreed to in writing.

c. Title to Real Property

This Contract will not confer, and will not be deemed as conferring, upon the ASM or any Licensee any ownership or possessory interest in any real property owned by or under the jurisdiction of the State, and the ASM agrees and warrants that it will never make any claim of such ownership interest.

6. Termination of ASM Site Construction Licenses

- a. If the Contractor determines that termination of a ASM Site Construction License is necessary, the Contractor must provide notice to the State at least six months in advance. The Notice must contain the business justification for termination of the ASM Site Construction License.

C. Co-Location Management

The ASM will be responsible for all third-party agreements, site management activities and expenses associated with communications installations developed or upgraded as a result of this Contract. The State must approve in advance all third-party agreements and user rates, and will have final approval over all installations.

1. In General:

- a. All Sites

The Contractor, with the participation and approval of the State, will:

- i. Establish Site License agreements with Licensees as provided under the Contract.
- ii. Manage or monitor licensee compliance with the applicable license agreements.

- iii. Respond to requests from Licensees for authorization to install or modify Licensees' equipment at a Site or Facility. Any decision by the ASM and/or the State to deny a Licensees' request to install or modify its Equipment must be in writing.
- b. New Sites
 - i. At all ASM Sites, the ASM will have the unilateral right to license space to ASM Licensees in accordance with the terms and conditions of a Site License. Terms of an ASM Licensee for an ASM Site will not conflict with this Contract or the Construction License, nor be longer than the term, including renewals, of the Construction License for the ASM Site. ASM will be solely responsible for the negotiation, issuance and management of any and all Site Licenses on any ASM Site.
 - ii. The State will have the right to have State Equipment installed on ASM Facilities subject to space availability, capacity, and technical compatibility.
 - iii. The State will have the right to have its Equipment installed at any elevation on any ASM Site. The State will work with the Contractor to determine what, if any, additional costs/fees will be required to use an ASM Site for telecommunications purposes.
- c. Existing State Sites
 - i. The ASM will have no right to issue a Site License on a State Site. All Site Licenses authorizing use of the State Sites must be executed by the State and the State Licensee.
 - ii. The State will have the right to have its Equipment installed at State Sites and will not be required to pay the ASM any License Fee in connection with such use.
 - iii. This Contract will not limit, alter, or otherwise affect in any respect, (i) the State's rights or relationship with any Existing State Licensees or any State Agency; or (ii) the right of any Existing State Licensee to renew an Existing Site License. **See Schedule C for the list of Existing State Licensees to be managed by ASM.** This list may be amended in writing to include additional State Licensees to be managed by the ASM at the State's sole discretion.
 - iv. At the State's request, the Contractor must use reasonable efforts to enforce the terms of an Existing Site License in connection with Contractor's management responsibilities under this Contract.

2. Marketing Plan and Marketing

- a. Within thirty (30) Days following the contract start date, the Contractor must submit a comprehensive marketing plan to the State Program Manager. The State Program Manager will review the marketing plan and will notify the Contractor in writing no later than thirty (30) Days following its receipt of the marketing plan whether the plan is approved or rejected. If the State Program Manager rejects the marketing plan, the reasons for such rejection will be provided in writing to the Contractor. The parties will then jointly develop a mutually acceptable marketing plan. The marketing plan must reflect the State's objective to improve and expand public and private sector telecommunications and information services and to promote the co-location of wireless telecommunication in order to minimize the proliferation of wireless telecommunication towers in the State.
- b. The marketing plan must include specific detail regarding marketing techniques to be utilized by the Contractor. All marketing literature, media releases, direct mail and other marketing materials must be reviewed and approved by the State prior to distribution.
- c. The marketing plan will require the Contractor to provide rate sheets reflecting the standard fees for ASM Sites; the standard fees for State Site commercial co-locations; and the standard fees for MPSCS members (public safety agencies). Contractor will provide any updates to the standard fees on a quarterly basis, to the State Program Manager.

Co-locations on MPSCS towers are governed by MCL 28.283. Specifically, MCL 28.283(3) requires costs associated for a public safety agency co-locating on any MPSCS tower to be comparable to the costs charged to other public safety agencies (MPSCS members), and non-public safety agencies (commercial) co-locations will be charged comparable costs to other non-public safety agencies. In addition, MCL 28.283(4) only allows commercial co-locations on a MPSCS tower (non-public safety agencies) to provide service within the statute's defined Service needs area.

- d. Following the State Program Manager's approval of the marketing plan, the Contractor must take all commercially reasonable steps specified in the marketing plan to actively, diligently, and continuously market Sites to potential Licensees, including, but not limited to, identifying, investigating, contacting, and negotiating with potential Licensees, and taking such other commercially reasonable marketing

actions necessary to maximize the amount of License Fees to be collected.

3. Site License Agreements

- a. For Commercial State Sites, the State uses a Master and Site License agreement which may be amended from time to time, an example agreement is attached as Schedule D.

The State will be directly involved in the negotiations on the Master License agreements with potential licensee. The State of Michigan Attorney General will also be involved in aspects of the process, as required by law.

- b. For Public Safety State Sites, the State uses a MPSCS Member Co-location License agreement which may be amended from time to time, an example agreement is attached as Schedule E.

The State will be directly involved in the negotiations on the Co-location License agreements with potential licensee. The State of Michigan Attorney General will also be involved in aspects of the process, as required by law.

- c. For ASM Sites, the Contractor will need to provide a draft Construction License and Site License Agreement template for State review and approval.

All Construction and/or Site License agreements must comply with all applicable, federal, state and local laws, rules, regulations and requirements, including but not limited to those of the State of Michigan (e.g. Administrative Board Review, Tall Structure Act), its Authorities, the Federal Communications Commission, Federal Aviation Administration, Federal Highway Commission and National Environmental Policy ACT (NEPA, to the extent applicable).

4. Compensation

- a. The Contractor must have an approach to be used in developing a basic compensation, fee structure. The Contractor must develop a compensation structure that accommodates a standard rate for ASM Sites (ASM commercial co-locations regardless of location), a standard rate for Commercial State Sites regardless of location and a standard rate for MPSCS Public Safety co-locations on MPSCS towers, per MCL 28.283.
- b. The Contractor will not be entitled to receive any compensation for the services provided under this Contract in addition to the

compensation specified in Schedule B. This does not include fees charged to applicants or licensees for purposes of establishing a site and license.

- c. The Contractor must notify the State's Program Manager of License Fees charged for all ASM Sites in writing upon execution of each License. License Fees for State Sites must be established in the Site License between the State and the Licensee. The Contractor may offer discounts on non-MPSCS towers to Licensees who can bring additional Licensees to applicable ASM Sites, within a reasonable time frame or to those Licensees who choose multiple Sites. Contractor will work with the State when there is a situation involving a State or Federally funded research entity, or a local government entity, or State sponsored partner, etc., that the Contractor will be flexible to either reduce fees or not include additional fees as requested by the State.

D. Audit

1. Records

- a. The ASM must maintain records relating to the performance of this Contract including, but not limited to, records relating to permits, approvals, billing rates, billing, collection of fees, payments, license fees, construction costs, surcharges and other accounting records ("Records") for all Sites. The ASM must maintain all Records related to a ASM Site for a period of not less than six (6) years after the expiration or other termination of the ASM Site Construction License for the ASM Site. The ASM must maintain all Records related to State Sites for a period of not less than six (6) years following the expiration or other termination of this Contract.
- b. The ASM must maintain all pertinent financial and accounting records and evidence pertaining to this Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan.
- c. The ASM must retain all Environmental Assessments, data, analysis and reports pertaining to Sites for a period of six (6) years following the expiration or termination of this Contract.

2. State Right to Audit

- a. The State, the Department of Auditor General, or their authorized designees, may from time to time, make an audit of all records of the ASM in connection with its accounting, billing and collection of all License Fees, surcharges and constructions costs, the ASM's payments to the State, and all records in connection with its performance of this Contract including without limitation, operational records related to ASM Facilities. Such audit may also cover the ASM's procedures and controls with respect to the costs to be reimbursed and the billing and collection of all charges. The right to audit with respect to State Sites will exist during the term of this Contract and for a period of six (6) years after the expiration of the Contract. The right to audit with respect to records on ASM Sites will exist during the term of the applicable ASM Site Construction License and for a period of six (6) years after the expiration or termination of such ASM Site Construction License.
- b. Any overpayment or underpayment shown by such an audit must be promptly corrected.

3. Contractor Internal Audit

- a. Annually, the ASM will provide the State with a certified list of all Licensees of the Sites during the previous calendar year and a copy of the ASM's own internal annual audit for all Sites within 60 days from January 1 of each year. Such list must include Licensee name, number of Sites licensed, period used, contract number under which the Licensee is operating, revenue sharing percentage formula and payment (See Reporting Requirements 5.2).
- b. Any overpayment or underpayment shown by such an audit must be promptly corrected.

2.2. Transition

A. Transition into the Contract

Beginning 90 days after Contract execution, Contractor will work with State's current Contractor to obtain the necessary information to take over maintenance and management of the State's Existing Licensees. The Contractor will work with the State to create a Construction License agreement template and any other documentation that will be used and needed by the Contract Start Date. The Contractor will work with the State and Current Contractor on any sites that are considered "Work in Progress" to determine when and how transition would occur.

B. Transition Out of the Contract

In addition to the Transition Requirements in the Standard Contract Terms, Section 25, the Contractor must also adhere to the following requirements when transitioning out of the Contract:

1. Upon the expiration or other termination of this Contract, the ASM must surrender the State Sites to the State and any right or interest of the ASM will immediately terminate. Any expiration or termination of this Contract will not affect ASM's or the State's rights under the ASM Site Construction Licenses executed prior to expiration or termination of the Contract.
2. Upon the expiration or termination of a ASM Site Construction License, the Contractor will either: (1) sell the Tower and/or other Facilities to the State at fair market value as provided below, or in the event the State chooses not to purchase the Tower and/or Facilities, (2) Contractor may extend, at its sole discretion, the ASM Site Construction License up to a period of 5 years, with 3, 5-year options. Any extension will include the same terms and condition. ASM must notify the State no later than twelve (12) months prior to the expiration of a ASM Site Construction License in writing with its proposed purchase agreement and fair market price, as determined by a mutually agreed upon third-party appraiser for the State's consideration. The State has no obligation to purchase any Tower and/or Facilities, and will respond to Contractor's proposal within ninety (90) days either accepting or rejecting such proposal. If the parties fail to reach an agreement prior to expiration of the License, then Contractor must remove the Tower as provided below.
3. Within six months following the expiration or termination of a ASM Site Construction License, ASM must dismantle and remove the Facilities and all other improvements placed by ASM upon the Site and must restore the Site, to a depth of six (6) inches below surface, to its original condition that existed on the Effective Date, reasonable wear and tear and damage from the elements and casualty excepted.
4. If Contractor fails to timely remove the Facility restore the Site, the State has the right to remove the Facility and to restore the Site at Contractor's cost.

2.3. Training

The Contractor must provide the following training:

- Site Development and Marketing

Contractor will provide periodic training outreach on new technologies and market changes.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

The State will use the following criteria to determine acceptance of the Contract Activities: DTMB-MPSCS is responsible for all State agencies' licensing transactions with the ASM except for MDOT, DNR, and DMVA which handle all aspects of their own licensing transactions. The DTMB-MPSCS point of contact must be provided copies of all license agreements entered into under this Contract, including all license agreements entered into by MDOT, DNR, or DMVA.

4. Staffing

4.1. Contractor Representative

The Contractor must appoint a ASM Program Manager and a Contractor's Representative, to be specifically assigned to State of Michigan accounts, and who will be the sole contact for contractual matters and State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the "Contractor Representative").

The Director of DTMB-MPSCS or his or her designee will have the right of approval for the ASM Program Manager.

Contractor's Contract Representative:

Matthew Bell

mbell@pyramidns.com

913-530-5796

Contractor's Program Manager:

Jenine Renaud

jrenaud@pyramidns.com

314-922-6535

4.2. Customer Service Number

The Contractor must specify its Customer Service Number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST.

Customer Service Number: 1-800-316-1503

4.3. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 5:00 p.m. EST and possible night and weekend hours depending on the requirements of the project with State's approval.

4.4. Key Personnel

The Contractor must appoint 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.

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. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under the **Termination for Cause** section of the Standard Contract 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 \$1,000.00 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 \$1,000.00 credit specified above, Contractor will credit the State \$100.00 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 \$5,000.00 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 \$5,000.00 per individual.

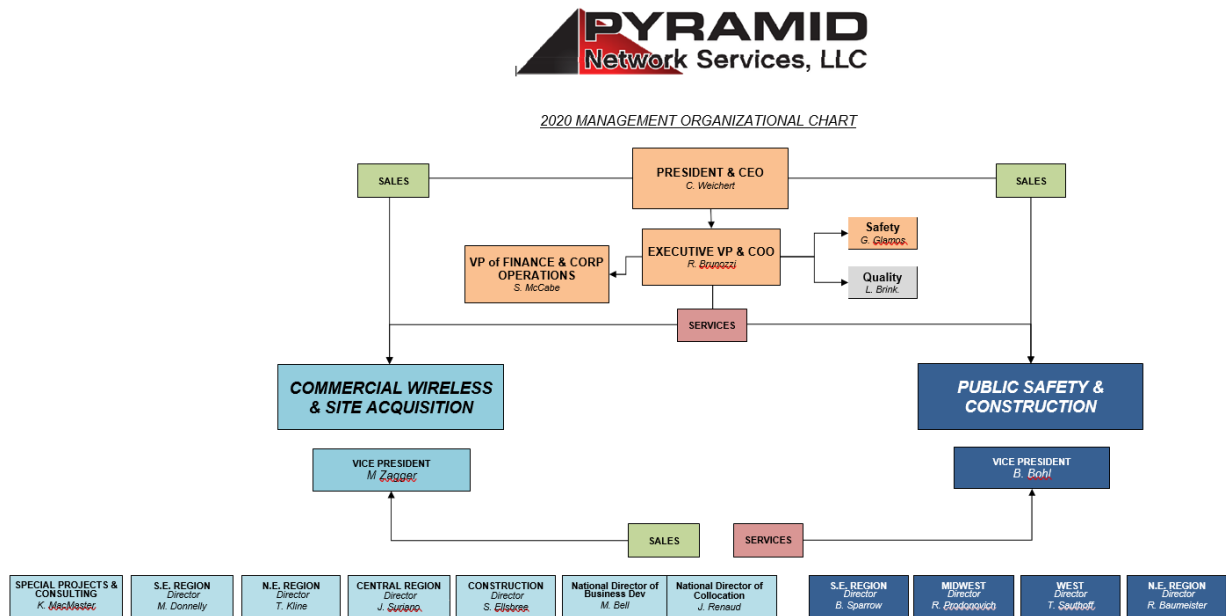
Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; 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.

1. Key Personnel Position	2. Name	3. Role(s) / Responsibilities	4. Direct / Subcontract/ Contract
ASM Program Manager	Jenine Renaud	The Program Manager will be responsible for the overall coordination of multiple project plans, i.e., Administration, Marketing and Engineering. The Program Manager will coordinate all aspects of the contract with the State of Michigan and supervise all Contractor employees assigned to the project. In addition to other duties, the Program Manager will be responsible for reports requested by the State of Michigan and will be the primary liaison between Contractor and the State.	Direct
Administrator	Rebecca Falcon	The Administrator will be responsible for the day-to-day operations, which will include lead tracking updates, inventory updates, site access management and installation and removal issues, and the processing and implementation of carrier requests. The Administrator will also be the secondary liaison between Contractor and the State.	Direct
Technical Services Director	Leon Brink	The Technical Services Director must understand the needs of the wireless providers and who will be familiar with the State of Michigan site inventory. The person who will be	Direct

1. Key Personnel Position	2. Name	3. Role(s) / Responsibilities	4. Direct / Subcontract/ Contract
		<p>hired for this position will meet with carrier representatives at the requested sites to determine carriers needs and to determine what modifications, if any, will be required for that site. The Technical Services Director will assist and supervise all installations by wireless carriers and assure that they comply with all federal, state and local requirements, as well as the terms of the installation agreement. The Technical Services Director will also be responsible for monitoring and maintenance of all sites. In the event of Radio Frequency interference issues, the Technical Services Director will become involved in the problem resolution procedure.</p>	
<p>Sales Account Manager</p>	<p>Matthew Bell</p>	<p>The Sales Account Manager will assume responsibility for the day-to-day marketing and management of the State of Michigan facilities. Additional support personnel will be required to complete any specific project if needed.</p>	<p>Direct</p>

4.5. Organizational Chart

The Contractor's Organizational Chart:



4.6. Disclosure of Subcontractors

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

- The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
- The relationship of the subcontractor to the Contractor.
- Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

4.7. Security

The Contractor will be subject the following security procedures:

A. SECURITY AT ASM SITES

Subject to the State's approval, the Contractor, will either construct and maintain a fence with a locked gate around any ASM Facility or Replacement Tower at the ASM Sites or will undertake other appropriate means to restrict access. The ASM must promptly provide a key or access code to the State at no cost to the State. In addition, in high traffic sites in urban/suburban areas, Contractor may deploy additional security measures including camera and access control technologies.

B. SECURITY AT STATE SITES

Some State Agencies may have special access and background requirements, including, but not limited to:

1. DTMB-MPSCS State Sites –
 - a. MPSCS Tower Site Access Policy, attached as Schedule F.
 - b. Upon arrival at the MPSCS Tower Site, ASM must contact the Network Communications Center (NCC) at 517-333-5050, and follow prompts to speak to representative and inform them that your on-site.
 - c. DTMB employee escort is required to access MPSCS fenced-in compound area. See MCL 28.283.
2. MDOT State Sites – Contractor will utilize MDOT’s online permit system to obtain approval for supervised access to any MDOT Site.

5. Project Management

5.1. Project Plan

1. Within thirty (30) Days following full execution of this Contract, the Contractor must submit a written, Project Plan (Detailed Work Plan) to the State Program Manager for review. The State Program Manager will notify the Contractor in writing within thirty (30) Days whether the proposed Detailed Work Plan has been approved or rejected. If the State Program Manager rejects the proposed Detailed Work Plan, the notice will provide the reasons for doing so. The parties will thereafter develop a mutually acceptable Detailed Work Plan. The Detailed Work Plan will be used as a guideline for implementing and managing the Work.
2. During Development of the Detailed Work Plan, the Contractor will also work with the State to develop Site Access requirements and guidelines as described in Section 2.1, B. 1.
3. Following the State Program Manager's written approval of the Detailed Work Plan, the Contractor will not modify, amend, or otherwise deviate from the plan without a written amendment to the plan executed by the Contractor and the State Program Manager.
4. The Detailed Work Plan must, at a minimum include the following items:
 - a. All tasks, task responsibilities, procedures, sequences, time frames and decision points for all procedures for the Contractor, the State Program Manager and applicable State Agencies with respect to all of the items set forth in Schedule G.

5.2. Meetings

The Contractor must attend the following meetings:

1. Weekly meetings between the State and the ASM Contract Manager to discuss and attempt to resolve any issues relating in any manner to this Contract.

Meetings may be conducted via teleconference, video conference, or in-person in Lansing, Michigan. State has sole discretion to change meeting frequency, location, date and time upon notice to ASM Contract Manager.

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

5.3. Reporting

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

- A. Biweekly summaries of progress which outline the work accomplished during Weekly status reports on activities and any issues needing the attention of the State to the State's Contract Manager. The State Contract Manager and the ASM Contract Manager will address any open issues needing their attention within fifteen (15) Days of written notification by either party.
- B. The Contractor must provide the State Program Manager with a written marketing report, if requested.
- C. Annually, the ASM will provide the State with a certified list of all Licensees of the Sites during the previous calendar year and a copy of the ASM's own internal annual audit for all Sites within 60 days from January 1 of each year. Such list must include Licensee name, number of Sites licensed, period used, contract number under which the Licensee is operating, revenue sharing percentage formula and payment.
- D. After issuance of a new Site License, the Contractor must provide the State's Program Manager of License Fees charged for all ASM Sites.
- E. Special reports and presentations for the State or Legislature, on the Contractor's activities, as needed.

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be a signed Master Agreement followed by the approval of the appropriate applications and agreements described above, i.e. Application for Preliminary, signed License agreement and/or ASM Site Construction License.

8. Invoice and Payment

The Contractor will be the party responsible for the invoicing, collection and monitoring of License Fees for all Site Licensees. The Contractor must also perform all

commercially reasonable actions approved by the State necessary to secure collection from past due payments.

8.1. Invoice Requirements

The Contractor will manage any compensation received from Site Licensees. The Contractor will report to the State all compensation activities, breaking down all factors including: (a) date; (b) location; (c) total fee collected; (d) Vendor payment was received from; (e) Fee to the Contractor; (f) fee to the State; and (g) total overall compensation for the Fiscal Year from the Vendor.

For ASM Sites: the Contractor must identify themselves as the owner of the Facility. The Contractor must provide to the State a detailed description of all write-offs, compromises or waivers of any ASM License Fees which are under \$1,000 per ASM Site per month. Fees greater than \$1,000 per month per ASM Site must be approved in writing by the State and Contractor prior to the write-off.

8.2. Payment Methods

The State will not make payment for activities to the Contractor directly. The compensation plan proposed by the Contractor will determine the percentage of compensation that will act as payment for the Contractor's services. The State will not pay for any additional costs associated with services outside of what the Contractor receives from leased sites and compensation structures.

The Contractor will collect all License Fees on both State and ASM Sites and will remit the amount due to the State through Electronic Funds Transfer on the 15th of the following month. The amount paid to the State must include a written accounting by Site and Licensee of the following: monthly License Fees due pursuant to the Site License, monthly License Fees collected and monthly License Fees or other amounts remitted to the State. The Contractor will not write-off, compromise, or waive any past due License Fees on State Sites.

9. Service Level Agreements

Failure to report without 24 hours' notice to an appointment for escorted access to a site, 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 Contractor does not provide 24 hours notice that a site visit needs to be rescheduled, the Contractor will be responsible for the following costs:

Tower installations will be charged \$3,800.00, and any tower modifications will be charged \$6,000.00.

SCHEDULE B - PRICING

Contract No. 210000001583
Antenna Site License Agreement

The Contractor must develop a compensation structure that accommodates a standard rate for ASM Sites (ASM commercial co-locations regardless of location), a standard rate for Commercial State Sites regardless of location and a standard rate for MPSCS Public Safety co-locations on MPSCS towers, per MCL 28.283.

ASM Sites (ASM commercial co-locations regardless of location)	
Compensation Rate	Revenue split with 70% to the Contractor and 30% to the State.
State Sites (Commercial and/or Public Safety State Sites regardless of location)	
Compensation Rate for Contract Term (existing sites)	\$2,000 per site/per year The Contractor will subtract fee above from rent received for each site, to be paid at the beginning of each year.
Compensation Rate for Contract Term (new sites)	\$9,000 one-time success fee. The Contractor will subtract fee above from rent received for each site, upon commencement of lease payments and until full \$9,000 fee is collected. After the first year, the lease becomes an existing site with the existing site rate.