



STATE OF MICHIGAN PROCUREMENT
Department of Technology, Management, and Budget
320 South Walnut, Lansing, Michigan 48933
P.O. Box 30026 Lansing, Michigan 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **240000000315**
between
THE STATE OF MICHIGAN
and

CONTRACTOR	Unified Business Technologies, Inc.
	353 Indusco Court, Suite C
	Troy, MI 48083-4646
	Robert Pastorelli
	(301) 904-0138
	robert.pastorelli@ubtus.com
	CV0041927

STATE	Program Manager	David Hofmeister	DTMB - VTS
		517-243-5766	
		Hofmeisterd@Michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Charging Equipment and Services for Battery-Electric Vehicles & Transit Buses.			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 1, 2024	May 31, 2031	3, one year	
PAYMENT TERMS		DELIVERY TIMEFRAME	
45 Days			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
F.O.B. Destination			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #230000001761. Orders for delivery will be issued directly by the Department in accordance to Schedule A, section 5. Ordering.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$5,000,000.00

FOR THE CONTRACTOR:

Unified Business Technologies, Inc.
Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Yvon Dufour – Category Specialist
Name & Title

DTMB Procurement
Agency

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Unified Business Technologies ("**Contractor**"), a Michigan Corporation. This Contract is effective on 6/1/2024 ("**Effective Date**"), and unless terminated, expires on 5/31/2031.

This Contract may be renewed for up to three one-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

"**Accept**" has the meaning set forth in **Section** Error! Reference source not found..

"**Acceptance**" has the meaning set forth in **Section** Error! Reference source not found..

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

"**Allegedly Infringing Materials**" has the meaning set forth in **Section** Error! Reference source not found..

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

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

"**Change**" has the meaning set forth in **Section** Error! Reference source not found..

"**Change Notice**" has the meaning set forth in **Section** Error! Reference source not found..

"**Change Proposal**" has the meaning set forth in **Section** Error! Reference source not found..

"**Change Request**" has the meaning set forth in **Section** Error! Reference source not found..

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“Confidential Information” has the meaning set forth in **Section** Error! Reference source not found..

“Configuration” means State-specific changes made to the Software without Source Code or structural data model changes occurring.

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

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

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

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

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

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

“Deliverables” means all materials, including, but not limited to Software, Documentation, written materials and commodities, that Contractor is required to or otherwise does provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in **Schedule A - Statement of Work**.

“Dispute Resolution Procedure” has the meaning set forth in **Section** Error! Reference source not found..

“Documentation” means all generally available documentation relating to the Software, including all user manuals, operating manuals and other instructions, specifications, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of the Software or Hosted Services (as defined in **Schedule D**), including any functionality, testing, operation or use thereof.

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

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

STANDARD CONTRACT TERMS

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

“Financial Audit Period” has the meaning set forth in **Section** Error! Reference source not found..

“Force Majeure” has the meaning set forth in **Section** Error! Reference source not found..

“HIPAA” has the meaning set forth in **Section** Error! Reference source not found..

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

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

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

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

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

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“New Version” means any new version of the Software that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor's designation of a new version number.

“PAT” means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.0 Level AA.

“Permitted Subcontractor” has the meaning set forth in **Section** Error! Reference source not found..

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

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

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

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

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

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

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

“Services” means any of the services Contractor is required to or otherwise does provide under this Contract, **Schedule A** - Statement of Work, **Schedule C** - Software Terms for On-site Hosting (if applicable), and **Schedule E** – Contractor Hosted Software and Services (if applicable).

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“Source Code” means the human readable source code of the Software to which it relates, in the programming language in which the Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the Software.

“Site” means the physical location designated by the State in, or in accordance with, this Contract or the Statement of Work for delivery or installation of the Contract Activities.

“State” means the State of Michigan.

“State Data” has the meaning set forth in **Section** Error! Reference source not found..

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

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

“Stop Work Order” has the meaning set forth in **Section** Error! Reference source not found..

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

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

“Transition Period” has the meaning set forth in **Section** Error! Reference source not found..

“Transition Responsibilities” has the meaning set forth in **Section** Error! Reference source not found..

“Unauthorized Removal” has the meaning set forth in **Section** Error! Reference source not found..

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“Unauthorized Removal Credit” has the meaning set forth in **Section Error!**
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“Warranty Period” means the period set forth in Schedule A, the Statement of Work, commencing on the date of acceptance of all Deliverables purchased pursuant to the terms of this Contract.

“WCAG 2.0 Level AA” means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0.

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

2. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (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.

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

3. **Statement(s) of Work.** Contractor shall provide the Contract Activities pursuant to Statements of Work entered into under this Contract. No Statement of Work shall be effective unless signed by each party's Contract Administrator. The term of each Statement of Work shall commence on the parties' full execution of the Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and attached as a schedule to this Contract. The State shall have the right to terminate such Statement of Work as set forth in **Sections 28 and 29** Contractor acknowledges that time is of the essence with respect to Contractor's obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work is strictly required.
4. **Statement of Work Requirements.** Each Statement of Work may include the following: (a) names and contact information for Contractor's Contract Administrator, Program Manager and Key Personnel; (b) names and contact information for the State's Contract Administrator, Program Manager and Business Owner; (c) a detailed description of the Services to be provided under this Contract, including any training obligations of Contractor; (d) a detailed description of the Deliverables to be provided under this Contract; (e) a description of all liquidated damages associated with this Contract, if any; and (f) a detailed description of all State Resources, if any, required to complete the Implementation Plan, if such a Plan is necessary.
5. **Change Control Process.** The State may at any time request in writing (each, a "Change Request") changes to the Statement of Work, including changes to the Contract Activities (each, a "Change"). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section** Error! Reference source not found.. No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.
6. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:

If to Contractor:

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Yvon Dufour 300-320 South Walnut Street, Elliot Larsen Building, 2 nd Floor Lansing, MI 48933 dufoury@michigan.gov (517) 249-0455	Robert Pastorelli, Col, U.S. Army (Ret.) Chief Operating Officer 353 Indusco Court, Suite C Troy, MI 48083-4646 301-904-0138 robert.pastorelli@ubtus.com
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7. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in **Schedule A** – Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.

8. **Insurance Requirements.**

See Schedule C.

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

10. **Extended Purchasing Program** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal.

Upon written agreement between the State and Contractor, this contract may also be extended to: (a) other states (including governmental subdivisions and authorized entities).

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

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

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

STANDARD CONTRACT TERMS

State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

- 12. Intellectual Property Rights.** Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Work Product produced as part of the Contract Activities, and all associated intellectual property rights, if any. In general, Work Product constitutes works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Work Product, and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Work Product, including all intellectual property rights therein. Contractor also irrevocably waives any and all claims Contractor may have now or hereafter have in any jurisdiction to so called "moral rights" or rights of *droit moral* with respect to the Work Product. If Contract Activities includes the purchase or use of software, such purchase, use, or access to Software shall be subject to **Schedules B and C or D** of this Contract.
- 13. Subcontracting.** Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any Third Party to perform Services. The State's approval of any such Third Party (each approved Third Party, a "**Permitted Subcontractor**") does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will: (a) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees; (b) name the State a third party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services; (c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and (d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.
- 14. Staffing.** Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits. The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
- 15. Key Personnel.** If, in the sole discretion of the State, Key Personnel are required to complete the Contract Activities, such Key Personnel shall be identified in **Schedule A - Statement of Work**. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement,

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of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Program Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Section 28.

It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 28**, Contractor will issue to the State an amount set forth in **Schedule A – Statement of Work** (each, an "**Unauthorized Removal Credit**").

- 16. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, 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.
- 17. 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

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necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

- 18. Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

- 19. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in **Schedule A**.
- 20. Acceptance.** 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 28**, 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.

- 21. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless

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otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.

- 22. 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.
- 23. 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.
- 24. Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

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

- 25. Payment Disputes.** The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute,

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

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

- 26. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
- 27. 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.
- 28. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) 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.

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- 29. 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 31**, 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.
- 30. Effect of Termination.** Upon and after the termination or expiration of this Contract or one or more Statements of Work for any or no reason: (a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section Error! Reference source not found.**; (b) all licenses granted to Contractor in State Data will immediately and automatically also terminate. Contractor must promptly return to the State all State Data not required by Contractor for its Transition Responsibilities, if any; (c) Contractor will: (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State's Confidential Information; (ii) permanently erase the State's Confidential Information from its computer systems; and (iii) certify in writing to the State that it has complied with the requirements of this **Section Error! Reference source not found.** in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.
- 31. 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 **180** 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.
- 32. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by

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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.

- 33. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 34. Limitation of Liability and Disclaimer of Damages.** THE STATE WILL NOT BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF

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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.

- 35. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, 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.
- 36. 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.
- 37. Reserved.**
- 38. Data Privacy and Information Security.**
- a. Undertaking by Contractor.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
 - b. Audit by Contractor.** No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
 - c. Right of Audit by the State.** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time

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during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

- d. Audit Findings.** Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies.** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

39. Reserved.

40. Reserved.

41. 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.

42. 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

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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 28**, Termination for Cause. If Contract Activities includes purchase, use, or access to software, Contractor must agree to additional Warranties and Representations found in **Schedules B** or **D** of this Contract, as applicable.

43. 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.

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

45. Accessibility Requirements.

- a. All Software provided by Contractor under this Contract, including associated content and documentation, must conform to WCAG 2.0 Level AA. Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:
 - i. Maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;
 - ii. Comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;

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- iii. Ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor's Software to WCAG 2.0 Level AA;
 - iv. Promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor's Software;
 - v. Upon the State's written request, provide evidence of compliance with this Section by delivering to the State Contractor's most current PAT for each product provided under the Contract; and
 - vi. Participate in the State of Michigan Digital Standards Review described below.
- b. State of Michigan Digital Standards Review.** Contractor must assist the State, at no additional cost, with development, completion, and on-going maintenance of an accessibility plan, which requires Contractor, upon request from the State, to submit evidence to the State to validate Contractor's accessibility and compliance with WCAG 2.0 Level AA. Prior to the solution going-live and thereafter on an annual basis, or as otherwise required by the State, re-assessment of accessibility may be required. At no additional cost, Contractor must remediate all issues identified from any assessment of accessibility pursuant to plans and timelines that are approved in writing by the State.
- c. Warranty.** Contractor warrants that all WCAG 2.0 Level AA conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines such conformance claims provided by the Contractor represent a higher level of conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor's stated WCAG 2.0 Level AA conformance claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause under **Section 28**.
- d.** Contractor must, without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorney's fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State arising out of its failure to comply with the foregoing accessibility standards.
- e.** Failure to comply with the requirements in this Section will constitute a material breach of this Contract.
- 46. HIPAA Compliance.** The State and Contractor must comply with all obligations under HIPAA and its accompanying regulations, including but not limited to entering into a business associate agreement, if reasonably necessary to keep the State and Contractor in compliance with HIPAA.

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- 47. Prevailing Wage.** Contractor must comply with prevailing wage requirements to the extent applicable to this Contract.
- 48. Reserved.**
- 49. 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.
- 50. 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.
- 51. 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.
- 52. 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.
- 53. 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.
- 54. 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

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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.

- 55. 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.
- 56. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 57. 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:

Name	Description
Schedule A	Statement of Work
Schedule B	Pricing and Fees
Schedule C	Insurance Requirements
Schedule D	Contractor Hosted Software and Services
Exhibit 1 to Schedule D	Support Services and Service Level Agreement for Hosted Services
Schedule E	Data Security Requirements
Exhibit 1 to Schedule E	Contractor's Disaster Recovery Plan
Schedule F	Federal Provisions Addendum
Schedule G	FTA Federally Required Contract Clauses

- 58. 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

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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.

- 59. 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.
- 60. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 61. 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.

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.

UBT

SCHEDULE A – STATEMENT OF WORK

CONTRACT ACTIVITIES

Contract No. 240000000315

Charging Equipment for Battery-Electric Vehicles & Transit Buses

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

BACKGROUND

This contract shall be used for the State, including its departments, divisions, agencies, offices, and commissions. It shall be used for all vehicle charging applications needed by the State including but not limited to passenger vehicles and transit buses.

Definitions

Transit Bus: A **transit bus** is a type of bus used on shorter-distance public transport bus services. Several configurations are used, including low-floor buses, high-floor buses, double-decker buses, articulated buses and midi-buses.

I. REQUIREMENTS

A. CHALLENGE STATEMENT

The State is seeking vendors that can provide solutions for Vehicle Charging Equipment and related Services, while meeting the “Transit Bus” and “general” requirements of this solicitation.

Items included in the scope of this RFS:

- Network and non-network charging stations hardware.
- Software, monitoring, billing and reporting services.
- Monitoring support services, maintenance, parts, and repair.
- Installation including site feasibility, engineering & design, preparation, and materials.
- Utility coordination

B. REQUEST FOR SOLUTION OVERVIEW

Technical Evaluation Criteria

1. Contractor must describe below how their solution meets the criteria for:

Scope and Specifications of Hardware Provided

The BoostHub Dual Port Solar EV Charger offers versatile hardware configurations. It comprises a solar panel EV charging station with Level 3 DC fast charging capabilities. BoostHub includes both Combined Charging System (CCS) and CHAdeMO plugs, ensuring compatibility with various electric buses and vehicles.

BoostHub can be deployed as a networked charging station, allowing for seamless integration into a charging network for fleet management, monitoring, and billing. Alternatively, it can function as a non-networked stand-alone unit, offering flexibility to transit agencies based on their specific requirements.



Reliability and Compatibility:

Our charging hardware, whether networked or stand-alone, is engineered to exceed industry standards in reliability and compatibility. It delivers a high charging rate to minimize downtime for transit vehicles.

The charging hardware equipment is agnostic to any one manufacturer (i.e., ChargePoint, EvGO) and engineered to meet industry standards, ensuring reliability and compatibility with electric buses. It can deliver a high charging rate to minimize downtime for transit vehicles.

Michigan Manufacturing Advantage:

Our BoostHub Dual Port Solar EV Charger is proudly manufactured in Michigan. This distinction not only underscores our commitment to local production but also positions us as a key contributor to the State's thriving clean energy sector. By producing BoostHub locally, we align with Michigan's sustainability goals, job creation initiatives, and the Justice40 Federal agency grant program, which benefits disadvantaged communities.

Technical Evaluation Criteria

2. Contractor must describe below how their solution meets the criteria for:

Monitoring: Scope and Specifications of Software and Services Provided

Our solution includes advanced software that facilitates comprehensive monitoring, management, and reporting of charging sessions. It offers an Application Programming Interface (API) that enables access to EV charging usage data for reporting and analysis

purposes. Transit agencies can integrate this API with their existing systems or third-party software.

The software allows for remote monitoring of charging stations, providing real-time data on charging status, energy consumption, and faults. Fleet managers can remotely manage and monitor the entire charging infrastructure, ensuring optimal performance.

Billing services are seamlessly integrated into the software, enabling transit agencies to implement flexible billing solutions based on usage metrics, time-of-day pricing, or other criteria. The software supports secure payment processing for both public and private charging sessions.

Reporting capabilities are extensive, offering transit agencies detailed insights into charging activity. Reports can include usage statistics, energy consumption trends, and billing information, enabling informed decision-making and efficient resource allocation.

Monitoring Software:

Our solution includes monitoring support services that leverage cellular network connectivity. This enables continuous remote monitoring of charging stations. The software provides real-time alerts for any operational issues, ensuring prompt response and minimal downtime.



Support Services:

Support services are comprehensive and include routine inspections, preventive maintenance, and repair. Our in-house team is comprised of experienced professionals, including electrical experts, who are well equipped to address any technical issues promptly.

Replacement parts are available to ensure minimal disruption in case of component failures. Our commitment is to supply replacement parts within five business days of a request, minimizing transit agency downtime and ensuring reliable service.

In addition to maintaining our BoostHub solution, we are well-equipped and experienced to extend the same high level of support to a wide range of EV charging equipment, even if it is not manufactured by us. Our strength lies in our team of technically qualified engineers, technicians, and support personnel who possess a deep understanding of EV charging infrastructure, electrical systems, and maintenance procedures.

Technical Evaluation Criteria

3. Contractor must describe below how their solution meets the criteria for:

Pre-Construction Services: Engineering and design

UBT's comprehensive solution for Pre-Construction Services encompasses an innovative energy efficient engineering and design phase that adheres to the highest industry standards. Our approach involves a multi-faceted strategy:

Our team is comprised of a diverse range of experts with years of experience and qualifications in various disciplines, ensuring the successful implementation of EV charging infrastructure projects.

Our in-house team includes:

Architects: Our team of architects possesses the expertise to design and plan the installation of EV charging stations in a manner that complements existing infrastructure, ensuring a seamless integration process. They play a pivotal role in optimizing site layouts and minimizing any impact on parking arrangements.

Electrical Engineer Professional Engineers (PEs): Our Electrical Engineer PEs are licensed professionals with a deep understanding of electrical systems, grid integration, and power distribution. They ensure that the EV charging infrastructure is engineered to the highest industry standards, offering efficiency, reliability, and safety.

Civil Engineering Professional Engineers (PEs): Our Civil Engineering PEs bring a wealth of knowledge in site development, construction, and structural engineering. They are instrumental in conducting site feasibility assessments, evaluating site conditions, and ensuring that installations comply with civil engineering requirements.

Advanced Software Tools: Leveraging Revit, BIM software, our engineers and designers create detailed plans and blueprints. These tools enable precise modeling and simulation, ensuring optimal placement and performance of EV charging equipment.

Local Compliance: We are well-versed in local regulations and standards, which are critical for any construction project. We've successfully executed projects for government and civilian agencies, which means we have a profound understanding of the security requirements, compliance standards, and quality assurance protocols essential for mission-critical applications. Our team ensures that all engineering and design work aligns seamlessly with the specific requirements of the State of Michigan.

Sustainability Focus: In line with our commitment to sustainability, we incorporate eco-friendly design elements whenever possible, such as solar panel integration and energy-efficient solutions.

Technical Evaluation Criteria

4. Contractor must describe below how their solution meets the criteria for:

BoostHub's installation process is designed for efficiency and minimal disruption. It does not require extensive engineering or construction work. BoostHub is portable and can be placed with minimal impact on parking layouts.

Site feasibility assessments are conducted to determine the optimal location for BoostHub. Our engineering and design team works closely with transit agencies to ensure that the installation meets safety, electrical, and code requirements.



All materials for installation, including mounting hardware and electrical components, are included in the comprehensive solution. These materials are selected for durability and compliance with industry standards.



In addition to our Michigan-manufactured BoostHub Solar Panel EV Charging stations, we take great pride in our highly skilled and proficient in-house construction services team.

Our Construction Division possesses a skilled workforce of:

- **Master Electricians:** Our Master electricians possess extensive experience in electrical systems, including high-voltage systems necessary for EV charging. They oversee the electrical installations, guaranteeing compliance with electrical codes and regulations, and ensuring the safety and reliability for all charging stations.
- **Journeyman Electricians:** Our journeyman electricians are skilled professionals who work closely with the master electricians to execute electrical installations, handle intricate wiring tasks, and ensure the precise and efficient connection of charging stations to power sources.
- **Apprentice Electricians:** Our apprentice electricians undergo technical training programs to develop their skills and knowledge in electrical systems. They provide invaluable support in the installation process under the supervision of experienced electricians.
- **Installers:** Our installation team is well-versed in the physical setup of EV charging stations, including assembling hardware, mounting units, and connecting electrical components. They ensure that installations are completed efficiently and in accordance with industry best practices.
- **Technicians:** Our team of technicians is responsible for the maintenance, repair, and troubleshooting of EV charging stations. They are equipped with the expertise to address technical issues promptly, minimizing downtime and ensuring optimal station performance.
- **Project Managers:** Our dedicated team of project managers oversees the entire installation process, from site feasibility assessments and engineering design to preparation and construction. They ensure that projects are executed efficiently, on time and within budget, leveraging their deep knowledge of construction and

engineering principles. including Master In-House Expertise: With our in-house team of architects, engineers, and construction managers, we streamline the construction process. This integrated approach ensures clear communication, efficient problem-solving, and adherence to project timelines.

- **Quality Control:** UBT follows USACE stringent three phase (preparatory, initial, follow up) quality control process throughout the construction phase. Inspectors, safety managers, and quality control managers work collaboratively to uphold the highest standards, keeping the project on track and within budget.
- **Safety Focus:** Safety is paramount in our construction projects. Our safety managers implement strict USACE EM 385-1-1 safety protocols as well as OSHA to protect both our workers and the public during construction.
- **Adaptability:** Our team has the flexibility to adapt to evolving project requirements, including changes in design or scope. We are equipped to handle any challenges that may arise during construction, ensuring successful project delivery. By aligning our engineering and design expertise with our skilled construction team, UBT offers a seamless transition from the planning phase to construction, resulting in high-quality EV charging station installations that meet or exceed all requirements.

Utility Coordination:

BoostHub offers versatile utility coordination options. It can operate as a stand-alone, off-grid solution powered by a 5.8KW solar array and a 45.6KW energy storage unit. This configuration eliminates the need for external utility coordination and ensures uninterrupted charging even in remote locations.

For transit agencies requiring grid connectivity, BoostHub can seamlessly connect to the utility grid via 110/208/240VAC Single Phase or 240/480VAC Three Phase. The integrated DC-AC inverter and microgrid controller facilitate direct grid connection, simplifying utility coordination.

Coordination with utility providers is typically straightforward due to BoostHub's flexible design and compatibility with various grid configurations. Transit agencies can choose the most suitable utility coordination approach based on their specific operational needs and site conditions.

In addition to our Michigan-made, standalone solar powered BoostHub solution, our in-house technical team and project managers possess a wealth of experience in coordinating with major utility providers, including DTE Energy and Consumers Energy. This experience is a key asset in ensuring the successful deployment and performance optimization of the EV Charging Stations.

Coordination with DTE Energy and Consumers Energy:

Our team has a proven track record of liaising with DTE Energy and Consumers Energy for various projects, including those related to renewable energy and EV charging infrastructure. We understand the utility requirements, processes, and regulatory frameworks of these providers intimately.

We maintain strong working relationships with utility representatives, including utility engineers and project managers. This allows for efficient communication, collaboration, and the seamless integration of our solar-powered BoostHub EV Charging Stations into the grid where necessary as well as other EV charging station installations.

Our experience extends to navigating the regulatory landscape, understanding grid interconnection standards, and complying with utility-specific technical specifications. We are well-versed in the permitting and approval processes required for grid-connected installations.

Our project managers coordinate with utility providers to ensure that the energy generated by our solar panels is efficiently utilized. This includes addressing peak-demand periods and aligning charging schedules for our EV charging stations with grid load requirements.

Optimizing Results:

Leveraging our experience in utility coordination, we are committed to delivering optimum results for transit agencies seeking to deploy our BoostHub Solar Panel EV Charging Station, as well as regular non-solar powered EV Charging Stations. Our in-house experts collaborate closely with utility providers to maximize the benefits of clean energy generation and storage.

We employ advanced energy management strategies to balance energy generation, storage, and consumption effectively. This includes peak shaving to reduce utility demand charges and optimizing the use of stored energy during periods of low sunlight.

Our team ensures that the installation and grid connection of BoostHub stations adhere to the highest safety and compliance standards, reducing any potential delays or disruptions in service.

With a focus on sustainability, we work hand in hand with utility partners to minimize the environmental footprint of our installations. This includes strategies for grid-friendly charging, minimizing grid stress, and contributing to grid stability.

Our experienced in-house technical team and project managers have a well-established track record of utility coordination. We leverage this experience to optimize the performance, efficiency, and sustainability of our BoostHub Solar Panel EV Charging Stations as well as the installation of any EV Charging Equipment identified by the State.

Maintenance, Parts, and Repair:

Our proficiency extends to equipment from various manufacturers, ensuring comprehensive maintenance and support capabilities.

Multi-Vendor Support:

We recognize that transit agencies may have diverse EV charging equipment requirements with EV charging stations from different manufacturers. Our team is well-versed in providing maintenance, repair, and support services for a wide array of charging stations, regardless of the brand or model.

Proactive Maintenance:

Our maintenance approach is proactive and tailored to each specific charging station's needs. We conduct routine inspections, performance assessments, and diagnostics to identify and address potential issues before they disrupt charging operations. This preventive maintenance approach applies universally to all charging equipment under our care.

On-Site Support:

Should a technical issue or malfunction occur with any charging equipment, our team is equipped to provide prompt on-site support. Our technicians arrive with the tools and expertise to diagnose, repair, and restore functionality to the charging station, minimizing downtime.

Inventory of Genuine Parts:

We maintain an inventory of genuine replacement parts for various EV charging equipment. This ensures that when replacement components are needed, we can swiftly access the right parts to expedite repairs within the 5-day time frame identified and minimize service interruptions.

Warranty Compliance:

Our support services are carried out in compliance with each EV Charging station manufacturer's warranty requirements. We document all maintenance and repair activities, preserving warranty coverage where applicable and ensuring a smooth claims process.

Continuous Training and Certification:

Our team undergoes continuous training and certification programs to stay updated on the latest advancements in EV charging technology and standards. This commitment to ongoing education ensures that we remain a Michigan company at the forefront of the industry.

Comprehensive Support Ecosystem:

Transit agencies can rely on our comprehensive support ecosystem, which includes dedicated account managers, a 24/7 support hotline, and a seamless reporting system. We prioritize quick response times and effective solutions to maintain the operational integrity of all EV charging equipment under our care.

Our experience and technical capabilities allow us to extend the same level of exceptional support and maintenance to all EV charging equipment, regardless of the manufacturer. Transit agencies can trust in our team's ability to keep their charging infrastructure operating at peak performance, ensuring the seamless and efficient charging.

C. TRANSIT BUS REQUIREMENTS

1. Contractor must provide a solution for Charging Equipment for Battery-Electric Buses.
2. The Contractor shall be capable of handling final inspection and corrections required by the State prior to acceptance of the Charging Equipment for a Battery-Electric Transit Bus after a contract is awarded.
3. The Contractor must provide parts and service for a period of seven (7) years after the charging equipment has been placed in service throughout the State of Michigan. The Contractor must supply replacement parts within five (5) business days of a request by a transit agency unless the Contractor notifies the transit agency that the part is not available for shipment and provides the shipping date when the part will be available.

Our BoostHub EV charging station product is designed to meet the specific charging requirements of battery-electric buses. It supports a range of connector types (J1772, CCS/CCS2) and charging capacities (AC Level I/II or DC Fast Charging), ensuring compatibility with the state's transit bus fleet. BoostHub can be tailored to meet specific sit requirements for the Battery-Electric transit fleet to support various usage models and operational methods whether simple plug in and just charge to secured per-transaction payment methodologies. It is built to high-quality standards, ensuring reliable and efficient charging for electric buses. Based on specific site location requirements the BoostHub units provided can be either completely standalone, off-grid solar powered or tied to the available AC 120/240/480V Low voltage or up to 13.2KV MV AC infrastructure power.

Our team of experienced engineers and technicians will work closely with the State and transit agencies to conduct inspections, addressing any corrections required promptly. We are experienced in delivering EV equipment that is compliant and ready for acceptance.

We will support the Charging Equipment for Battery-Electric Buses for an extended period of seven (7) years after it has been deployed throughout the State of Michigan. We have a dedicated service and parts supply infrastructure. Our support team is prepared to respond promptly to any requests for replacement parts from transit agencies within the required five (5) business days. In the unlikely event that a part is not immediately available, we will communicate this to the transit agency, providing a clear shipping date and ensuring minimal downtime for the charging equipment

D. GENERAL REQUIREMENTS

1.1 Products and Equipment

- a) Contractor must include thorough descriptive literature and technical data for each item proposed.
- b) It is the Contractor's responsibility to submit sufficient information to enable the State to evaluate their proposed Product(s) and related services.

1.2 Warranties

Describe any warranties included in the contract – add additional rows as needed. Explain the process for reporting warranty issues and how the Contractor will handle any repairs or replacements.

The State reserves the right to require additional warranties other than those identified by the Contractor in its response to this RFS.

Provide the length of the warranty: One year

Explain the process for reporting warranty issues: In case of any warranty issues, transit agencies can report them through our dedicated warranty support hotline, email address, or web portal, which will be provided upon installation.

Explain how any repairs or replacements are made, including timing, etc.: If a warranty issue arises, our response time for repairs will be within 48 hours. If the equipment requires replacement due to a manufacturing defect, we commit to providing a replacement unit within 5 business days.

Provide contact information of the party responsible for the warranty:

UBT Program Manager Steve Todovertto

353, Indusco Ct, Troy, MI

sales@ubtus.com

286-945-6706

1.3 Recall Requirements and Procedures

Recall Procedure Overview:

Identification of Issue: If any potential safety issue, defect, or non-compliance is identified, we will immediately initiate a recall investigation. This is triggered by internal quality control processes, customer reports, or regulatory notifications.

Notification: Upon confirming the need for a recall, we will promptly notify the State and all affected transit agencies. This notification will include details about the specific issue, its potential safety implications, and recommended actions.

Communication Plan: We will develop a comprehensive communication plan to inform all relevant stakeholders, including transit agencies, maintenance personnel, and end-users. This plan will include clear and concise instructions on how to identify affected equipment and the steps to take. **Replacement or Repair:** In cases where a recall necessitates equipment replacement or repair, we will coordinate and expedite the process. Repairs will be conducted promptly and in accordance with the recall procedure.

Regulatory Compliance: We will ensure full compliance with all relevant regulatory agencies during the recall process. This includes reporting and documentation requirements.

Monitoring and Reporting: We will maintain continuous communication with the State and transit agencies throughout the recall process, providing regular updates on the status of the recall, the number of affected units, and the resolution timeline.

Resolution Verification: After the recall has been completed, we will conduct verification procedures to ensure that the issue has been effectively resolved and that the equipment is safe for use.

It's important to note that our recall procedures are designed to prioritize safety, transparency, and timely resolution. We are committed to working closely with the State, regulatory authorities, and transit agencies to address any potential issues swiftly and efficiently, ensuring the continued safe and reliable operation of the Charging Equipment.

1.4 Quality Assurance Program

At UBT, we take quality seriously, and our Quality Assurance Program is a central component of our commitment to delivering reliable and high-performing Charging Equipment. Our program encompasses a range of processes, standards, and practices aimed at ensuring that our products meet and exceed the State's expectations.

Program Overview:

Quality Standards: Our ISO 9001: 2001 and CMMI level 3 product and services certification standards govern every aspect of our operations, from product design, software programming and manufacturing to installation, maintenance, and customer support.

Design and Engineering: We place a strong emphasis on the design phase of our Charging Equipment. Our engineering team consists of experienced professionals who rigorously assess design parameters, materials, and compatibility to ensure that our products are safe, efficient, and durable.

Manufacturing Quality: The manufacturing process is closely monitored to maintain the highest quality standards. This includes regular inspections, testing, and quality control checks at each stage of production. Our manufacturing facilities adhere to industry best practices, and all products undergo comprehensive testing before they leave the factory.

Supplier Quality: We work closely with a select group of trusted Michigan suppliers who meet our stringent quality requirements. Our supplier evaluation process ensures that components and materials used in our Charging Equipment meet or exceed industry standards.

Installation and Commissioning: Our quality commitment extends to the installation phase. Our field technicians are trained to follow established installation procedures meticulously. We conduct on-site inspections and testing to verify that the Charging Equipment is installed correctly and functioning as intended.

Monitoring and Maintenance: Ongoing monitoring and maintenance are critical to ensuring the continued performance of our products. We provide comprehensive monitoring services to detect and address issues proactively. Routine maintenance is conducted according to a strict schedule to prevent downtime and maintain equipment efficiency.

Customer Support: Our customer support team is readily available to address any inquiries, concerns, or issues raised by the State or transit agencies. We maintain a dedicated support hotline, email support, and web portal for efficient communication and issue resolution.

Continuous Improvement: We continuously evaluate and enhance our Quality Assurance Program based on feedback, industry advancements, and lessons learned from previous projects. This commitment to continuous improvement ensures that our products and services remain at the forefront of quality and reliability.

List of Features for Mobile Devices:

The following list highlights key features that can be performed via a mobile device when accessing our Solution:

Real-time Monitoring: Users can access real-time data and monitoring of charging stations, including charging status, energy consumption, and availability.

Point of use Fee Collection: Collection of fees for usage via a secured and encrypted link utilizing TLS v1.2 or greater with AES 256-bit encryption. Connections are further secured by VPN using RSA 2048-bit key encryption over GPRS to upstream AWS or Azure Cloud based servers. Payment method is certified as PCI DSS service provider level 1 with support for Contactless communication using RSA encryption. Tokenized payment card data with no storage of data at point of use is supported.

Charging Management: Transit agency personnel can start, stop, and schedule charging sessions remotely using their mobile devices. This includes the ability to prioritize charging for specific buses or routes.

Fault Alerts: Users receive immediate fault alerts and notifications on their mobile devices, allowing for quick response to any charging station issues or maintenance needs.

Billing and Reporting: Mobile payment collection can be provided and is compliant to PCI Data Security Standard v3.2.1. Mobile access enables users to generate reports to view billing information, generate reports, and access historical charging data for analysis.

Service Requests: Users can submit service requests, report issues, and request maintenance for charging equipment through the mobile interface.

User Authentication: Secure user authentication and authorization processes are in place to ensure that only authorized personnel can access and control the Solution via mobile devices. Multi-Factor authentication methods are supported to prevent fraudulent use of compromised user credentials.

Compatibility Updates: Our Solution is regularly updated to ensure compatibility with the latest mobile operating systems and devices, providing a seamless user experience.

d) ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA) and has adopted standards and procedures regarding accessibility requirements for websites and software applications. All websites, applications, software, and associated content and documentation provided by the Contractor as part of the Solution must comply with Level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

We are committed to adhering to the WCAG 2.0 Level AA guidelines to ensure that all digital assets associated with our Solution, including websites, applications, and software interfaces are accessible to individuals with disabilities.

User Testing: We conduct rigorous user testing to verify that our digital assets are accessible to individuals with various disabilities, including those with visual, auditory, motor, and cognitive impairments. User feedback is integrated into the design and development process.

Responsive Design: Our Solution employs responsive design principles, ensuring that content and user interfaces adapt to different screen sizes and assistive technologies used by individuals with disabilities, such as screen readers and voice commands.

Alternative Text and Descriptions: We provide comprehensive alternative text descriptions for images and multimedia content, making it possible for individuals using screen readers to understand and interact with the content.

Keyboard Navigation: Our software and interfaces are designed to be fully navigable via keyboard commands, allowing individuals with mobility impairments to access all functionality without the need for a mouse.

Captioning and Transcripts: Video and audio content are accompanied by captioning and transcripts to facilitate comprehension for individuals with hearing impairments.

High Contrast and Clear Typography: We utilize high-contrast color schemes and clear typography to enhance readability for users with visual impairments.

Accessible Forms and Controls: All forms and interactive elements within our digital assets are designed to be accessible and usable by individuals with disabilities, including proper labeling and error messaging.

Compliance Testing: We conduct regular compliance testing using automated and manual methods to ensure that our digital assets conform to WCAG 2.0 Level AA standards.

Ongoing Maintenance: Accessibility is not a one-time effort. We commit to ongoing monitoring, maintenance, and updates to ensure that our digital assets remain accessible as technologies evolve.

1.7 User Type and Capacity

Type of User	Access Type	Number of Users	Number of Concurrent Users
Administrator	Read/Write	40	40
Read Only	Read Only	5000*	5000*

*Subject to change. Actual quantities unknown.

Contractor must be able to meet the expected number of concurrent Users listed above.

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

To support the above expected number of concurrent users, we use a scalable cloud-based architecture on AWS or Azure based systems that support dynamic scaling and load balancing mechanisms. This architecture allows us to distribute user requests evenly and efficiently, ensuring that our Solution can handle peak loads without performance degradation. Current service providers have network users in excess of 1M users and >1K Administrator accounts.

Scalability:

Our Solution is highly scalable, capable of scaling up or down based on user demand without affecting performance. We can dynamically allocate additional resources to handle increased user traffic during peak times and scale down during periods of lower activity. This ensures that the Solution consistently delivers optimal performance while managing operating costs effectively.

Bidder must provide details regarding latency response time for (i.e., Generate Page Load, standardized reporting, ad hoc reporting):

Our goal is to provide a responsive and efficient user experience for all latency-sensitive actions within the Solution. While actual latency response times may vary based on factors like network conditions and server load, we aim to maintain the following response times:

Generate Page Load: We target a page load time of less than 3 seconds for standard pages.

Standardized Reporting: Standardized reporting requests are designed to return results within 5 seconds or less, depending on the complexity of the report.

Ad Hoc Reporting: Ad hoc reporting requests, which may involve more complex queries and data retrieval, are designed to return results within 10 seconds or less, depending on the query complexity and number of records to be returned.

The Bidder must identify what network connectivity or equipment will the State be required to have to meet the expected latency response time?

To meet the expected latency response times, the State is required to have a reliable and high-speed internet connection. The specific network connectivity requirements will depend on the State's existing infrastructure and network capabilities. Our Solution is designed to work seamlessly over standard wired internet connections, WiFi, or via 4G/5G Cellular based connectivity. We recommend a stable internet connection with sufficient bandwidth to support concurrent user activities without bottlenecks.

Additionally, we will work closely with the State's IT team to assess the existing network infrastructure and provide any specific recommendations or requirements tailored to the State's environment to ensure optimal performance.

1.8 Access Control and Authentication

The Contractor's solution must integrate with the State's IT Identity and Access Management (IAM) environment as described in the State of Michigan Digital Strategy ([MILogin - Help - michigan.gov](https://milogin.michigan.gov)), which consist of:

- a) MILogin/Michigan Identity, Credential, and Access Management (MICAM)
 - An enterprise single sign-on and identity management solution based on IBM's Identity and Access Management products including, IBM Security Identity Manager (ISIM), IBM Security Access Manager for Web (ISAM), IBM Tivoli Federated Identity Manager (TFIM), IBM Security Access Manager for Mobile (ISAMM), and IBM DataPower, which enables the State to establish, manage, and authenticate user identities for the State's Information Technology (IT) systems.
- b) MILogin Identity Federation
 - Allows federated single sign-on (SSO) for business partners, as well as citizen-based applications.
- c) MILogin Multi Factor Authentication (MFA, based on system data classification requirements)
 - Required for those applications where data classification is Confidential and Restricted as defined by the 1340.00 Michigan Information Technology Information Security standard (i.e. the proposed solution must comply with PHI, PCI, CJIS, IRS, and other standards).
- d) MILogin Identity Proofing Services (based on system data classification requirements)
 - A system that verifies individual's identities before the State allows access to its IT system. This service is based on "life history" or transaction information aggregated from public and proprietary data sources. A leading credit bureau provides this service.

To integrate with the SOM MILogin solution, the Contractor's solution must support SAML, or OAuth or OpenID interfaces for the SSO purposes.

Bidder must acknowledge their agreement with this section and provide details for how they will meet the requirements:

We are committed to working closely with the State's IT team to ensure a successful integration with the MILogin system, complying with the State's identity and access management requirements, and contributing to the overall security and efficiency of the State's IT ecosystem. Our goal is to provide a secure, reliable, and user-friendly experience for State personnel accessing our Solution.

Our solutions operate as a Tier III + data center Utilizing AWS or Azure infrastructure and authentication best practices and are PCI DSS certified. All hosting datacenters are FIPS, PCI, ISO, and FedRAMP certified/ Additional information on the security practices and controls utilized by AWS is available in their SOC 1, 2 and 3 reports available at <https://aws.amazon.com/compliance/soc-faqs/>. AWS is also a member of the Cloud Security Alliance's (CSA's) Security, Trust & Assurance Registry (STAR). Information about the CSA's STAR is available at https://cloudsecurityalliance.org/star/#_overview.

AWS has published a Self-Assessment detailing their security program, which is available at <https://cloudsecurityalliance.org/star/registry/amazon/>. AWS's alignment with ISO 27018 has been validated by an independent third-party assessor. ISO 27018 is the first international code of practice that focuses on protection of personal data in the cloud. It is based on ISO information security standard 27002 and provides implementation guidance on ISO 27002 controls applicable to Personally Identifiable Information (PII) processed by public cloud service providers. This demonstrates to customers that AWS has a system of controls in place that specifically address the privacy protection of their content. For more information on AWS's ISO 27018 practice, please visit Amazon's Compliance site.

1.9 End-User Operating Environment

The SOM environment is X86 VMware, IBM Power VM, MS Azure/Hyper-V and Oracle VM, with supporting platforms, enterprise storage, monitoring and management.

Contractor must accommodate the latest browser versions (including mobile browsers) as well as some pre-existing browsers. To ensure that users with older browsers are still able to access online services, applications must, at a minimum, display and function correctly in standards-compliant browsers and the state standard browser without the use of special plugins or extensions. The rules used to base the minimum browser requirements include:

- Over 2% of site traffic, measured using Sessions or Visitors (or)
- The current browser identified and approved as the State of Michigan standard

This information can be found at <https://www.michigan.gov/browserstats>. Please use the most recent calendar quarter to determine browser statistics. Support is required for desktop and mobile and tablet browsers identified with over 2% of site traffic.

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

Contractor must describe any State system access requirements that are necessary for the Contractor to perform its obligations on a timely basis, including but not limited to, physical or remote access to State networks, servers, or individual workstations: Our Solution will be designed to function correctly in standards-compliant browsers and the State standard browser without the need for special plugins or extensions. Our systems can run completely independent of any State based networks, or closely integrated with State infrastructure and systems.

Contractor must describe if it can comply with the current environment and how it intends to comply with any future changes to the user environment. And if not, describe what end user operating environment its solution supports: We are committed to supporting the current and future State standard environment at no additional cost to the State. Our development and testing processes will incorporate the State standard environment to ensure seamless compatibility.

BoostHub operating environment is compliant with NEVI mandates, including data accessibility for advanced reporting and API capabilities; remote charger monitoring for detailed insights into diagnostic data, charging session, and connector usage; multilingual, ADA compliant mobile app; transparent pricing; data privacy and PCI

payment security; and ensuring reliable charging experiences even when internet connectivity is temporarily unavailable. The platform also includes network branding options through a NEVI-compliant white label platform and driver app, which allows NEVI participants to maintain brand identities without cumbersome and costly customization work.

Contractor must describe if it can support the original environment throughout the term of the contract: We have a dedicated team that monitors and stays updated with evolving browser trends and changes in the end-user operating environment. In the event of future changes, such as updates to the State standard browser or the introduction of new standards, we will proactively assess the impact on our Solution and make any necessary adjustments to ensure continued compatibility.

Contractor must describe how it communicates changes to its roadmaps: Any major changes to browser requirements are communicated to users ahead of time.

Contractor must identify any plug-ins necessary for the proposed solution to meet the system requirements of this request: Our Solution is designed to minimize the need for external plug-ins. However, if any specific plug-ins are required for the proposed solution to meet the system requirements of this request, we will clearly identify and communicate those requirements to the State. We are committed to ensuring that the installation and management of any required plug-ins are as seamless as possible.

Contractor must describe how customers collaborate with your organization in the decision-making process for upgrades, maintenance, and change control: We highly value collaboration with our customers. We engage with customers through a consultative approach, involving them in decision-making processes for upgrades, maintenance, and change control. We gather feedback through surveys, customer advisory boards, and regular communication channels to ensure that customer needs and preferences are considered in our development and maintenance activities.

1.10 Software

Contractor has established partnerships with leading EV charging software providers like ChargePoint, EVConnect, AmpUp, and others ensuring compatibility and access to their cutting-edge software solutions. Our software solution offers a proven, reliable, and feature-rich platform that enhances the functionality of our BoostHub EV charging stations. The software selected is simply a matter of State preference and can be integrated into the BoostHub's modular hardware / software architecture.

In-House Software Development Team: Beyond third-party software integration, our unique advantage lies in our in-house team of software developers, designers, and engineers. This dedicated team is equipped to customize, configure, and scale software solutions to meet the specific business or technical demands of the State. Their expertise allows for rapid adaptation and customization to address evolving needs.

Software Functionality:

Monitoring and Reporting: Our software provides real-time monitoring of charging station performance, energy consumption, and billing information. It offers comprehensive

reporting capabilities, ensuring agencies have access to data-driven insights for better decision-making.

User Access Control: The software enables secure user access control, allowing transit agencies to manage permissions, track usage, and ensure the security of their EV charging infrastructure.

Remote Diagnostics: Our software includes remote diagnostic tools, reducing the need for physical intervention. It allows for proactive maintenance and swift issue resolution, minimizing downtime.

Scalability: The software is scalable. It can be configured or expanded to accommodate the State's evolving needs, whether it's adding new charging stations or integrating additional software modules.

Optional Add-On Modules:

The software is designed with flexibility in mind, allowing for the integration of optional add-on modules as needed. These modules can include:

Advanced Energy Management: Enhance control over energy usage, optimize charging schedules, and integrate renewable energy sources more effectively.

Fleet Management: Streamline fleet operations by offering features such as tracking and reporting tailored to transit agency requirements.

Billing and Payment Solutions: Integrate billing and payment processing systems to facilitate revenue collection and accounting for EV charging services.

Open Source and Third-Party Products:

If required, we can incorporate open-source or third-party products into our software ecosystem. However, it's important to note that we prioritize the use of reliable, secure, and proven software components to ensure the highest level of performance and data integrity.

Our solution leverages a combination of industry-leading software providers, like ChargePoint and EVGO, and our in-house software development expertise. This approach ensures a powerful, adaptable, and scalable software solution that can meet the State's evolving business and technical demands while maintaining the highest standards of security and reliability.

For third-party products that are being proposed as part of the overall Solution, Bidder must include any end-user license agreements that will be required to access and use such products: We will provide any end-user license agreements as required based on the State's service and equipment selection.

Bidder must include any end-user license agreements that will be required by the State to access the Solution as Exhibit 2 of Schedule E: Not Applicable

1.11 Migration

Throughout the years we have assisted our customers with data migration efforts and our capabilities include:

Data Mapping and Analysis: We begin by conducting a thorough analysis of the existing data to be migrated. This includes understanding the data structure, format, and any potential data dependencies. We will work closely with your team to identify specific data requirements.

Data Cleansing and Transformation: To ensure data integrity, we perform data cleansing and transformation as needed. This includes error correction, removal of duplicate records, and data normalization to match the format required by our system.

Secure Data Transfer: We utilize secure data transfer protocols and encryption methods to safeguard data during transit. Our team is well-versed in best practices for data security.

Testing and Validation: Before finalizing the migration, we conduct rigorous testing and validation processes. This includes verifying data accuracy, completeness, and consistency.

Rollback Procedures: We establish comprehensive rollback procedures in the unlikely event of data migration issues. This ensures that your existing data remains intact and can be reverted to its original state if necessary.

Data Migration Limitations:

While our data migration capabilities are extensive, it's important to acknowledge certain limitations:

Data Volume and Complexity: Extremely large volumes of data or highly complex data structures may require additional time and resources for migration. We will work closely with you to assess and plan for such scenarios.

Legacy System Compatibility: Compatibility issues with legacy systems may arise during data migration. Our team will work collaboratively with your IT experts to address any system-specific challenges.

Custom Data Requirements: Highly customized or proprietary data structures may present challenges during migration. We will assess these on a case-by-case basis and develop tailored solutions.

Data Privacy and Compliance: Compliance with data privacy regulations is followed. We ensure that data migration processes adhere to these regulations and prioritize data protection.

Integration Complexity: If the migration involves integrating with multiple third-party systems, the complexity of data mapping and integration may increase. We manage these complexities through careful planning and coordination.

1.12 Hosting

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

See UBT's Disaster Recovery Plan, **Exhibit 1 of Schedule E**.

1.13 Products and Services

In managing its obligation to meet the above milestones and deliverables, the Contractor is required to utilize the applicable [State Unified Information Technology Environment \(SUITE\)](#) methodologies, or an equivalent methodology proposed by the Contractor.

SUITE's primary goal is the delivery of on-time, on-budget, quality systems that meet customer expectations. SUITE is based on industry best practices, including those identified in the Project Management Institute's PMBoK and the Capability Maturity Model Integration for Development. It was designed and implemented to standardize methodologies, processes, procedures, training, and tools for project management and systems development lifecycle management. It offers guidance for efficient, effective improvement across multiple process disciplines in the organization, improvements to best practices incorporated from earlier models, and a common, integrated vision of improvement for all project and system related elements.

While applying the SUITE framework through its methodologies is required, SUITE was not designed to add layers of complexity to project execution. There should be no additional costs from the Contractor, since it is expected that they are already following industry best practices which are at least similar to those that form SUITE's foundation.

SUITE's companion templates are used to document project progress or deliverables. In some cases, Contractors may have in place their own set of templates for similar use. Because SUITE can be tailored to fit specific projects, project teams and State Program Managers may decide to use the Contractor's provided templates, as long as they demonstrate fulfillment of the SUITE methodologies.

The Bidder is required to review <http://www.michigan.gov/suite> and demonstrate how each PMM/SEM requirement will be met. Bidders wishing to use their own documents must submit an example of the document that will be substituted. If the Bidder deems a document to be non-applicable, please provide reasons for the determination. The State reserves the right to give final approval of substituted documents and items marked as non-applicable: UBT uses MS Project on all our project deliveries. We understand the State's SUITE functionality and purpose. Our PM has the knowledge and experience to successfully execute on this project and will use the SUITE framework to implement the contracts awarded to us.

Bidder must describe how they will meet the requirements set forth above and note any exceptions for successful implementation and ongoing support of the Solution: UBT will utilize SUITE as a framework to enhance efficiency and effectiveness in project management and systems development. SUITE's guidance on process disciplines, best practices, and improvement will be integrated into our approach to ensure the successful execution of all projects.

We recognize the importance of having a common, integrated vision of improvement for all project and system-related elements. The Bidder will work collaboratively with the State to align its methodologies with SUITE's integrated vision, ensuring that project and system elements are in sync.

2. Service Requirements

2.1 Timeframes

All Contract Activities must be delivered within 210 business days from receipt of order. The receipt of order date is pursuant to the **Notices** section of the *Standard Contract Terms*.

2.2 Delivery

Delivery must be made between the hours of 8:00 a.m. and 4:00 p.m. Eastern, Monday through Friday ONLY, excluding Holidays.

2.3 Technical Support and Repairs

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

2.4 Training

The Contractor must explain training that is included in its proposal, as well as any additional training capabilities available and related costs, if any.

The training included in our solution is bundled with the overall project cost. Our goal is to ensure that your team is well-prepared to manage and maintain the Vehicle Charging Equipment effectively, enhancing the efficiency and reliability of your electric bus fleet. We will collaborate with the state to tailor a training program that meets your needs and objectives.

2.5 Reporting

The Contractor must submit to the Program Manager quarterly reports which include agency name, item(s) purchased, options, price, date ordered, date delivered, funding used: (Federal/State/Local).

Our reporting capabilities are designed to provide Program Managers with the information they need to oversee the project effectively, track expenses, monitor equipment performance, and make informed decisions. We are committed to working closely with the Program Manager to understand their reporting requirements and customize our reporting solutions accordingly.

2.6 Meetings

Meetings requested by the State include, but are not limited to, a kick-off meeting.

The State may request other meetings as it deems appropriate.

3. Staffing

3.1 Contractor Representative

The Contractor must appoint a Service manager, or a Product Representative specifically assigned to State of Michigan accounts who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the "Contractor Representative").

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

3.2 Contract Administrator

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

State:	Contractor:
Yvon Dufour 300-320 South Walnut Street, Elliot Larsen Building, 2 nd Floor Lansing, MI 48933 dufoury@michigan.gov (517) 249-0455	Devika Pakkala 353 Indusco Court, Suite C Troy, MI 48083-4646 contracts@ubtus.com (248) 588-1781

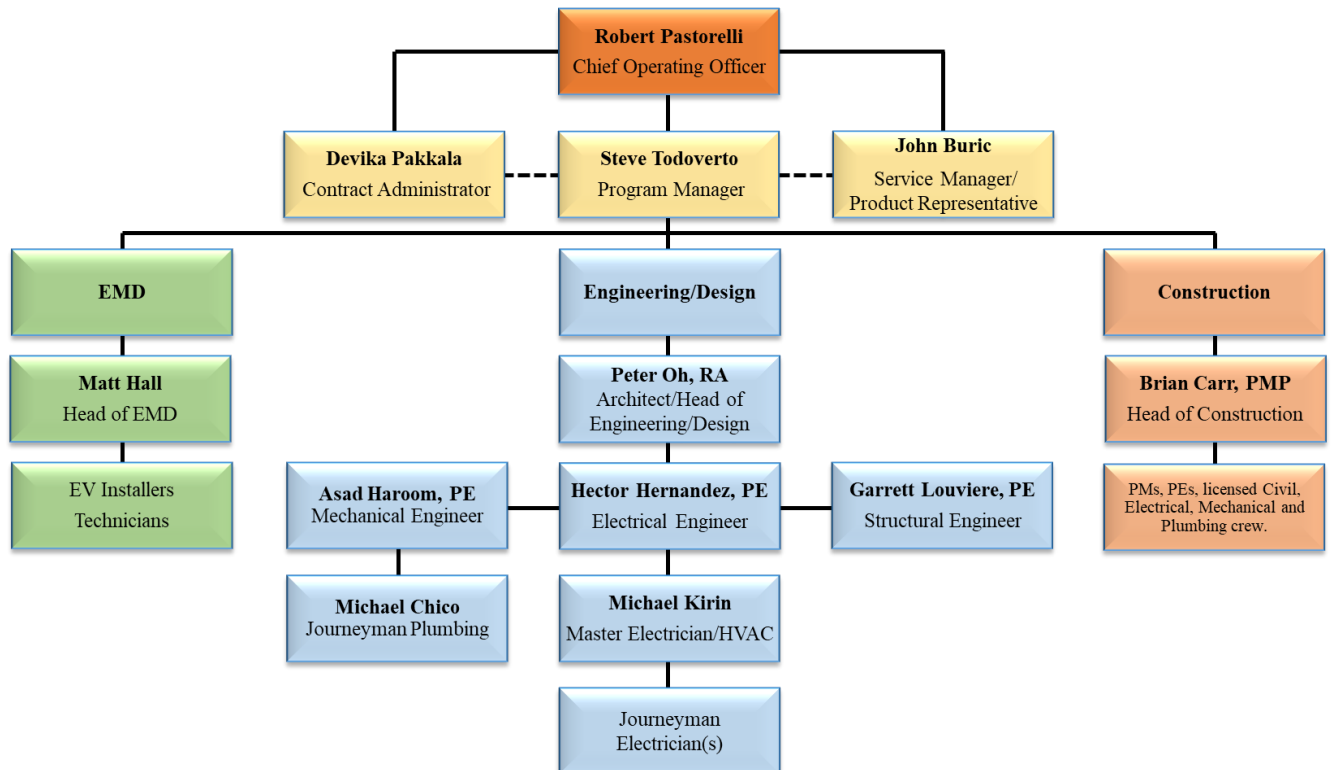
3.3 Program Manager

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

State:	Contractor:
Jeff Turner 425 W Ottawa St Lansing, MI 48908 turnerj3@michigan.gov 517-335-1700	Steve Todovertto 353 Indusco Court, Suite C Troy, MI 48083-4646 sales@ubtus.com 286-945-6706

3.4 Organizational Chart

UBT’s Organizational Chart is presented below, including all lines of authority and communication.



3.5 Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State to contact the Contractor Representative who must be available for calls during the hours of 8 am to 5 pm EST Monday through Friday, at a minimum. Identify customer service availability for this proposal by hours and days of the week.

877-342-5828

8 am to 5 pm EST Monday through Friday

3.6 Technical Support, Repairs and Maintenance

The Contractor must specify its toll-free number for the State to contact the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 8 am to 5 pm EST Monday through Friday at a minimum. Identify availability for this proposal by hours and days of the week.

877-342-5828

8 am to 5 pm EST Monday through Friday

3.7 Disclosure of Subcontractors

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

- The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
- The relationship of the subcontractor to the Contractor. Of the total bid, the price of the subcontractor's work. 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.

Bidder must provide detailed information as requested in the above requirement(s).	
The legal business name, address, telephone number of the subcontractor(s).	UBT has a team of in-house professionals and technicians and installers as discussed in detail above. No subcontractors will be used.
A description of subcontractor's organization and the services it will provide and information concerning subcontractor's ability to provide the Contract Activities.	Not Applicable
The relationship of the subcontractor to the Bidder.	Not Applicable

Bidder must provide detailed information as requested in the above requirement(s).	
Whether the Bidder has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.	Not Applicable
A complete description of the Contract Activities that will be performed or provided by the subcontractor.	Not Applicable
Of the total bid, the price of the subcontractor's work.	Not Applicable

Bidder must provide information based on the work performed by all subcontractors	
Total percentage of work that will be performed by subcontractors:	Not Applicable
Total percentage of subcontracted work that will be performed by GDBE subcontractors:	Not Applicable

3.8 Security

The Contractor will be subject the following security procedures:

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

The Contractor's staff may be required to make deliveries to or enter State facilities. The State may require the Contractor's personnel to wear State issued identification badges.

Uniforms and Identification Badges: Our personnel are required to wear clearly identifiable uniforms and State-issued identification badges when entering State facilities. This not only ensures easy recognition of authorized personnel but also enhances transparency and accountability.

Background Checks: To further enhance security, we conduct thorough background checks on all our employees who may be required to access State facilities. These background checks are carried out by a reputable third-party security company with expertise in background screening and investigations.

Scope of Background Checks: Our background checks encompass a comprehensive review of an individual's criminal history, employment history, education verification, and reference checks. These checks are conducted in strict compliance with applicable laws and regulations.

Background Check Company: CLUSO Inc. is the trusted partner responsible for conducting these background checks on our behalf. They adhere to industry best practices and are committed to maintaining the highest standards of security and confidentiality.

4. Pricing

4.1 Price Term

Pricing is firm for the entire length of the Contract with exceptions per section “4.2 Price Changes”.

4.2 Price Changes

- a)** Pricing is firm for a 365-day period (“Pricing Period”). The first pricing period begins on the Effective Date. Adjustments for changes in the charging equipment specifications may be requested, in writing, by either party and will take effect no earlier than the next Pricing Period subject to **c)**, and **d)** of this section.

Adjustments for changes in federal regulations may be submitted at any time during the contract term subject to **b)**, **c)**, and **d)** of this section.

- b)** If changes in federal regulations affect the cost of the Charging Equipment during the Contract period by more than one hundred dollars (\$100.00), the Contractor may request a price revision to reflect the actual cost increase experienced. The request must be accompanied by evidence that the change actually affected the Contractor’s cost.
- c)** Requests for price changes shall be received in writing at least 30 days prior to their effective date and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the Contract may be canceled.
- d)** Per Federal Transit Administration (FTA) requirements, a cost or price analysis is required for all price changes.
 - i.** The State may request a Review upon 30 days written notice that specifies what Deliverable is being reviewed. At the Review, each party may present supporting information including information created by, presented, or received from third parties.
 - ii.** Following the presentation of supporting information, both parties will have 30 days to review the supporting information and prepare any written response.
 - iii.** In the event the Review reveals no need for modifications of any type, pricing will remain unchanged unless mutually agreed to by the parties. However, if the Review reveals that change may be recommended, both parties will negotiate in good faith for 30 days unless extended by mutual agreement of the parties.
 - iv.** If the supporting information reveals a reduction in prices is necessary and Contractor agrees to reduce rates accordingly, then the State may elect to exercise the next one-year option, if available.

- v. If the supporting information reveals a reduction in prices is necessary and the parties are unable to reach agreement, then the State may eliminate all remaining Contract renewal options.
- vi. Any changes based on the Review must be implemented through the issuance of a Contract Change Notice.

5. Ordering

5.1 Authorizing Document

The appropriate authorizing document for the Contract will be a Delivery Order (DO) or a Purchase Order from the purchasing entity.

5.2 Order Verification

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

Electronic Workflow: We utilize electronic workflow systems that allow for the efficient routing of orders through our organization. Each order is tracked digitally, and any deviations from established protocols trigger immediate alerts and reviews.

Documented Policies and Procedures: We maintain a comprehensive set of documented policies and procedures that outline the steps, roles, and responsibilities involved in placing orders. These documents serve as a reference for our staff and are regularly updated to reflect any changes in our processes.

5.3 Quantity

The State is not obligated to purchase in any specific quantity. The estimated quantity to order shall be one (1) charger.

6. Delivery

6.1 Delivery Programs

The Contractor must explain in detail its delivery programs (e.g., standard delivery and quick-ship), including any limitations such as quantity.

The Contractor must explain the transportation method (e.g., UPS, FedEx, Contractor fleet, or other third-party carrier) it intends on utilizing in delivery of the Contract Activities. Delivery must be made between the hours of 8:00 a.m. and 4:00 p.m. Eastern, Monday through Friday ONLY, excluding Holidays.

6.2 Packaging and Palletizing

Packaging must be optimized to permit the lowest freight rate. Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets.

6.3 General Delivery

The State and/or the Ordering Entities have the right to refuse charging equipment delivery if the following conditions are not met. For the delivery of all units that may be released against the Contract the following must apply:

- a) All necessary testing and equipment placement should be performed by the charger manufacturer before final inspection/acceptance by the State.

- b) The initial charger model should serve as a standard for the following units as ordered but should not relieve the Contractor from an obligation to manufacture all units in compliance with all specifications.

7. Acceptance

7.1 Acceptance, Inspection and Testing

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

- a) The Contractor shall complete all corrections required by the State or Ordering Entity prior to final acceptance.
- b) Exact Production for Delivery Due Dates will be determined by the delivery schedule, plus (+) seven (7) calendar days from issue date indicated on the Purchase Order.

7.4 Final Acceptance

Final Acceptance is when the project is completed and functions according to the requirements listed in all previous sections of this document or is provided by the proposer's charger functionality checklist and approved site cleanliness. Any intermediate acceptance of sub-Deliverables does not complete the requirement of Final Acceptance.

The State and /or the Ordering Entity have the right to refuse charging equipment delivery when the conditions listed above are not met.

8. Invoice and Payment

8.1 Invoice Requirements

All invoices submitted to the State must include: **(a)** date; **(b)** purchase order number; **(c)** contract number; **(d)** quantity; **(e)** description of the Contract Activities; **(f)** line items for up-fitting options **(g)** unit price; **(h)** shipping cost (if any); and **(i)** total price; **(j)** Ordering Entity.

8.2 Payment Methods

The Ordering Entities will make payment for Contract Activities to the Contractor by EFT or other methods agreed to by the Contractor and purchasing entity.

9. Project Plan

For this proposal: Contractor shall provide a generic project plan that includes milestone dates and all related activities required for the installation of vehicle charging equipment.

See Attachment 1 to Schedule A - Project Schedule

10. Licensing Agreement

The Contractor must provide a copy of any applicable licensing agreement.

Not applicable

11. Liquidated Damages

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

Unauthorized Removal of Key Personnel will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, the State may assess liquidated damages against Contractor as specified below.

- The State is entitled to collect \$1,000 per individual per day for the removal of any Key Personnel without prior approval of the State.
- The State is entitled to collect \$1,000 per individual per day for an unapproved or untrained key personnel replacement.

12. Additional Requirements

12.1 Environmental and Energy Efficiency Product Standards

The Contractor must identify any energy efficient, bio-based, or otherwise environmentally friendly products used in the products. Contractor must include any relevant third-party certification, including the verification of a United States Department of Agriculture certified bio-based product label. Contractor must describe how products that meet these requirements are identified or otherwise labelled.

12.2 Hazardous Chemical Identification

In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, *et seq.*, as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number.

The Contractor must identify any hazardous chemicals that will be provided under any resulting contract.

12.3 Mercury Content

Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor must explain if it intends to provide products containing mercury, the amount or concentration of mercury, and whether cost competitive alternatives exist. If a cost competitive alternative does exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.

12.4 Brominated Flame Retardants

The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs. Contractor must describe how products that meet these requirements are identified or otherwise labelled.

13 Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)

The Contractor must confirm that the provided products do not intentionally contain PFAS. This consists of all components of the provided products, including product packaging.

14 Service-Level Agreements (SLAs)

The Contractor will be held accountable to meet the requirements and the service level requirements established in this Contract.

Service Level Agreements for this Contract will be as follows:

SLA Metric 1. Timely Deliveries	
Definition and Purpose	<p>The Contractor must ensure that items and quantities delivered are exactly the items, brands, and quantities on the Order Confirmation. No substitutions will be allowed without prior written permission by Program Manager and a Change Notice executed by the Contract Administrator.</p> <p>The entire order will be received on the same day unless a partial delivery has been approved in advance by the Program Manager.</p>
Acceptable Standard	<ol style="list-style-type: none"> 1. All deliveries must occur in accordance with the approved delivery schedule for each Facility and Facility Receiving hours. See Section 6.1. 2. Extenuating circumstances must be communicated by the Contractor to the purchasing entity prior to the scheduled delivery date and time. 3. Items, brands, and quantities delivered will match the Order Confirmation exactly. 4. Signed and dated packing slips will be provided to purchasing entity at the time of delivery. 5. The entire order must be delivered on the same day unless a partial delivery has been approved in advance by the purchasing entity. 6. Orders not received in their entirety, as determined by a review of the Data Sources, will be considered inaccurate. <p>The acceptable standard is 100% compliance.</p>

SLA Metric 1. Timely Deliveries	
Credit Due for Failing to Meet the Service Level Agreements	<ol style="list-style-type: none"> 1. \$100.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year. 2. \$500.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year. <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the state will be completed within 10 days of notice of assessment.</p>

Attachment 1 to Schedule A – Project Schedule

Project Plan for Vehicle Charging Equipment Installation

Project Initiation (Duration: 1 week)

Milestone 1: Contract Award and Kick-off Meeting

Activity: Contract finalization, team mobilization, and project initiation meeting.

Milestone Date: [TBD]

Site Assessment and Feasibility (Duration: 2 weeks)

Milestone 2: Site Assessment Completion

Activity: Conduct site visits, assess infrastructure requirements, and evaluate feasibility.

Milestone Date: [TBD]

Engineering and Design (Duration: 3 weeks)

Milestone 3: Engineering and Design Phase Completion

Activity: Develop detailed engineering plans, electrical designs, and permitting documentation.

Milestone Date: [TBD]

Utility Coordination (Duration: 2 weeks)

Milestone 4: Utility Coordination Completion

Activity: Coordinate with local utilities for electrical connections and approvals.

Milestone Date: [TBD]

Procurement (Duration: 4 weeks)

Milestone 5: Equipment Procurement

Activity: Order charging equipment, materials, and components as per project specifications.

Milestone Date: [TBD]

Installation and Construction (Duration: 6 weeks)

Milestone 6: Commencement of Installation

Activity: Begin equipment installation, electrical work, and construction.

Milestone Date: [TBD]

Milestone 7: Mid-Installation Inspection

Activity: Conduct mid-installation inspection to ensure compliance with design plans.

Milestone Date: [TBD]

Milestone 8: Installation Completion

Activity: Finalize installation, testing, and commissioning of charging equipment.

Milestone Date: [TBD]

Testing and Quality Assurance (Duration: 2 weeks)

Milestone 9: Testing and QA Completion

Activity: Conduct rigorous testing, quality assurance checks, and performance evaluations.

Milestone Date: [TBD]

Training (Duration: 1 week)

Milestone 10: Training

Activity: Provide training to State personnel and operators on equipment usage and maintenance.

Milestone Date: [TBD]

Final Inspection and Acceptance (Duration: 2 weeks)

Attachment 1 to Schedule A – Project Schedule

Milestone 11: Final Inspection and Acceptance

Activity: Perform final inspection, address any outstanding issues, and obtain State acceptance.

Milestone Date: [TBD]

Project Closure (Duration: 1 week)

Milestone 12: Project Closure

Activity: Documentation, handover of project deliverables, and project closure meeting.

Milestone Date: [TBD]

This generic project plan serves as a framework for the installation of vehicle charging equipment. The actual project plan for a specific installation will be customized to accommodate project-specific details, timelines, and requirements.

Please note that the milestone dates will be adjusted as per the project's actual schedule. Additionally, a more detailed project plan, including specific tasks and dependencies, will be developed in collaboration with the State to ensure successful project execution.



Schedule B – Pricing

Unified Business Technologies, Inc.

SCHEDULE B PRICING

Request For Solution No. 230000001761
Charging Equipment for Battery-Electric Vehicles & Transit Buses

1. The pricing schedule should be submitted in a modifiable format (e.g. Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: 0% discount off invoice if paid within 0 days after receipt of invoice

4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

ITEM	COST	NOTES
BoostHub C3	\$49,647.00/Each	BoostHub-C3 EV Charging Station, 3 Station, Infrastructure Wired. Fully self-contained EV Charging Stations and support equipment. Up to six 12kw AC Level 2 Charge Ports. Upgrade options to DC Fast Charge Level 3 Charge Ports Single Point Connection to power infrastructure.
BoostHub SF3	\$199,110.00/Each	BoostHub-SF3 EV Charging Station, 3 station, Solar, DC Fast Charge. Fully self-contained EVSE and support in 20' Conex Box, just set and connect. Environmentally sealed container, no need for additional shelter or protection from the elements. No foundation or anchoring required, may be permanently anchored to asphalt or concrete. Supports 3 EV Charging Stations; 2, 7.2KW Level 2 AC with SAE J1772 Plug and 1 22.5KW DC Fast Charger with

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this RFS.
UBT, Inc., 353 Indusco Court, Suite C, Troy, MI 48063-4646, 248-588-1781, www.ubtus.com



230000001761

Charging Equipment for Battery-Electric Vehicles & Transit Buses

ITEM	COST	NOTES
		CCS or ChaDeMo connectors. Standalone operation via 8.6KW Solar Array, 86KW Lithium Iron Phosphate Energy Storage unit and 3 Phase 36KW DC-AC Inverter / Charger system.
Lead Program Manager	\$155.69/hr	
Senior Program Manager	\$143.07/hr	
Program Manager	\$119.03/hr	
Lead Project Manager	\$138.26/hr	
Senior Project Manager	\$110.61/hr	
Project Manager	\$102.20/hr	
Subject Matter Expert	\$179.14/hr	
Technical Expert	\$132.25/hr	
Lead Engineer	\$132.25/hr	
Senior Engineer	\$118.55/hr	
Engineer	\$113.46/hr	
Construction Manager	\$108.20/hr	
Contracts Specialist	\$93.42/hr	
Senior Cost Estimator	\$105.16/hr	
Inspector	\$93.48/hr	
Senior Inspector	\$111.00/hr	
Lead Inspector	\$146.06/hr	
Technician Level 5	\$135.85/hr	
Technician Level 4	\$116.30/hr	
Technician Level 3	\$92.85/hr	
Technician Level 2	\$83.07/hr	
Technician Level 1	\$73.30/hr	

Unified

SCHEDULE C - INSURANCE REQUIREMENTS

Request For Proposal No. 230000001761 Charging Equipment for Battery-Electric Vehicles & Transit Buses

- 1. General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- 2. Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- 3. Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- 4. Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
 - a. Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
 - b. Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.
- 5. Proof of Insurance.**
 - a. Insurance certificates showing evidence of coverage as required herein must be submitted to DTMB-RiskManagement@michigan.gov within 10 days of the contract execution date.
 - b. Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
 - c. Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
 - d. All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).

- e. The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.
 - f. In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to DTMB Enterprise Risk Management no later than 5 business days following such cancellation or nonrenewal.
- 6. Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.

7. Limits of Coverage & Specific Endorsements.

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 20 10 12 19 and CG 20 37 12 19.
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.

Required Limits	Additional Requirements
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	
Privacy and Security Liability (Cyber Liability) Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
Crime (Fidelity) Insurance	
Minimum Limits: \$1,000,000 Employee Theft Per Loss	Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as Loss Payees.
Professional Liability (Errors and Omissions) Insurance	
Minimum Limits: \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate	

- 8. Non-Waiver.** This Schedule C 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.

Schedule D - Contractor Hosted Software and Services

Contract No. 240000000315

Charging Equipment for Battery-Electric Vehicles & Transit Buses

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

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

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

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

“Integration Testing” has the meaning set forth in **Section 4.2(c)**.

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

“Open-Source License” has the meaning set forth in **Section 2.3**.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other

Schedule D - Contractor Hosted Software and Services

features, conditions and components as hardware, operating software and system architecture and configuration.

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

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

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

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

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

“User Data” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.

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

2. Hosted Software License Grant and Source Code Escrow

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

Schedule D - Contractor Hosted Software and Services

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

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

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

(d) access and use the Hosted Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Hosted Services, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Hosted Services as described in **Section 2.2**.

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

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

2.4 Open-Source Licenses. For Contractor Hosted Software only (and not for the provision of Software-as-a-Service), any use hereunder of Open-Source Components shall be governed by, and subject to, the terms and conditions of the applicable open-source license ("Open-Source License"). Contractor shall identify and describe in an exhibit to the Statement of Work each of the Approved Open-Source Components of the Software, and include an exhibit attaching all applicable Open-Source Software Licenses or identifying the URL where these licenses are publicly available.

2.5 Source Code Escrow. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. Contractor hereby grants the State a license to use, reproduce, and create derivative works from the deposit material, provided the State

Schedule D - Contractor Hosted Software and Services

may not distribute or sublicense the deposit material or make any use of it whatsoever except for such internal use as is necessary to maintain and support the Software. Copies of the deposit material created or transferred pursuant to this Contract are licensed, not sold, and the State receives no title to or ownership of any copy or of the deposit material itself. The deposit material constitutes Confidential Information of Contractor pursuant to **Section 38.a** of this Contract (provided no provision of **Section 38.e** calling for return of Confidential Information before termination of this Contract will apply to the deposit material).

3. Hosted Services Testing and Acceptance.

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

3.2 Testing and Acceptance.

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

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

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

Schedule D - Contractor Hosted Software and Services

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

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

4. Support Services.

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

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

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

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

4.3 Support Service Responsibilities. Contractor will:

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

Schedule D - Contractor Hosted Software and Services

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

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

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

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

5. Software and Service Warranties.

5.1 Contractor represents and warrants to the State that:

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

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

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

(d) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened action, and it has not received any written, oral or other notice of any action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services, Hosted Services, or Software does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software

Schedule D - Contractor Hosted Software and Services

or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services, including Hosted Services, or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

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

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

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

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

(i) Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;

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

Schedule D - Contractor Hosted Software and Services

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

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

Exhibit 1 to Schedule D - Support Services and Service Level Agreement for Hosted Services

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

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

“Availability” has the meaning set forth in **Section 2(a)**.

“Availability Requirement” has the meaning set forth in **Section 2(a)**.

“Available” has the meaning set forth in **Section 2(a)**.

“Contractor Service Manager” has the meaning set forth in **Section 1.1**.

“Corrective Action Plan” has the meaning set forth in **Section 3.3**.

“Critical Service Error” has the meaning set forth in **Section 3**.

“Exceptions” has the meaning set forth in **Section 2.2**.

“Force Majeure Event” has the meaning set forth in **Section 4.1**.

“High Service Error” has the meaning set forth in **Section 3**.

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

“Low Service Error” has the meaning set forth in **Section 3**.

“Medium Service Error” has the meaning set forth in **Section 3**.

“Resolve” has the meaning set forth in **Section 3.1(a)**.

“Scheduled Downtime” has the meaning set forth in **Section 2.3**.

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

“Service Availability Credits” has the meaning set forth in **Section 2.6(a)**.

“Service Level Credits” has the meaning set forth in **Section 3.2**.

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

“Service Period” has the meaning set forth in **Section 2(a)**.

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

“Software Support Services” has the meaning set forth in **Section** Error! Reference source not found..

“State Service Manager” has the meaning set forth in **Section 1.2**.

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

“Support Request” has the meaning set forth in **Section 3**.

“Support Service Level Requirements” has the meaning set forth in **Section 3**.

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

1. Personnel

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

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

2. Service Availability and Service Availability Credits.

(a) Availability Requirement. Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a **“Service Period”**), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the **“Availability Requirement”**). **“Available”** means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract.

“Availability” has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for

the Service Period as follows: $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \times 100 = \text{Availability}$.

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

- (a) failures of the State's or its Authorized Users' internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 2.3**.

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

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

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

2.6 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State the following credits on the fees payable for Hosted

Services provided during the Service Period (“**Service Availability Credits**”):

Availability	Credit of Fees
≥99.98%	None
<99.98% but ≥99.0%	15%
<99.0% but ≥95.0%	50%
<95.0%	100%

(b) Any Service Availability Credits due under this **Section 2.6** will be applied in accordance with payment terms of the Contract.

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

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

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

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

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

- (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
- (ii) if Contractor’s facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the

State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 3**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and

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

3. Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 3 (“Support Service Level Requirements”)**, and the Contract.

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

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none">• Issue affecting entire system or single critical production function;• System down or operating in materially degraded state;• Data integrity at risk;

	<ul style="list-style-type: none"> Declared a Critical Support Request by the State; or Widespread access interruptions.
High Service Error	<ul style="list-style-type: none"> Primary component failure that materially impairs its performance; or Data entry or access is materially impaired on a limited basis.
Medium Service Error	<ul style="list-style-type: none"> Hosted Service is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.
Low Service Error	<ul style="list-style-type: none"> Request for assistance, information, or services that are routine in nature.

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

1.

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)	Service Level Credits (For Failure to Respond to any Support Request Within the Corresponding	Service Level Credits (For Failure to Resolve any Support Request Within the Corresponding
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			Response Time)	Required Resolution Time)
Critical Service Error	One (1) hour	Three (3) hours	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount

			required response time.	will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

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

3.2 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 3.1(a)** ("**Service Level Credits**") in accordance with payment terms set forth in the Contract.

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

4. Force Majeure.

4.1 Force Majeure Events. Subject to **Section 4.3**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a “**Force Majeure Event**”), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

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

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

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

SCHEDULE E – DATA SECURITY REQUIREMENTS

Contract No. 240000000315

Charging Equipment for Battery-Electric Vehicles & Transit Buses

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

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

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

“FISMA” means the Federal Information Security Modernization Act of 2014 (Pub.L. No. 113-283 (Dec. 18, 2014.)).

“Hosted Provider” means any Permitted Subcontractor that is providing any or all of the Hosted Services under this Contract.

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

“PCI” means the Payment Card Industry.

“PSP” or **“PSPs”** means the State’s IT Policies, Standards and Procedures

“SSAE” means Statement on Standards for Attestation Engagements.

“Security Accreditation Process” has the meaning set forth in **Section 6** of this Schedule.

2. Security Officer. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Hosted Services who has sufficient knowledge of the security of the Hosted Services and the authority to act on behalf of Contractor in matters pertaining thereto (**“Contractor Security Officer”**).

3. Contractor Responsibilities. Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

- (a) ensure the security and confidentiality of the State Data;

SCHEDULE E – DATA SECURITY REQUIREMENTS

- (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;
- (c) protect against unauthorized disclosure, access to, or use of the State Data;
- (d) ensure the proper disposal of any State Data in Contractor's or its subcontractor's possession; and
- (e) ensure that all Contractor Representatives comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html.

4. Acceptable Use Policy. To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Policy, see https://www.michigan.gov/documents/dtmb/1340.00.01_Acceptable_Use_of_Information_Technology_Standard_458958_7.pdf. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing State systems. The State reserves the right to terminate Contractor's and/or subcontractor(s) or any Contractor Personnel's access to State systems if the State determines a violation has occurred.

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

5.1. If Hosted Services are provided by a Hosting Provider, ensure each Hosting Provider maintains FedRAMP authorization for all Hosted Services environments throughout the Term, and in the event a Hosting Provider is unable to maintain FedRAMP authorization, the State, at its sole discretion, may either a) require the Contractor to move the Software and State Data to an alternative Hosting Provider selected and approved by the State at Contractor's sole cost and expense without any increase in Fees, or b) immediately terminate this Contract for cause pursuant to **Section 15.1** of the Contract;

5.2. for Hosted Services provided by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required

SCHEDULE E – DATA SECURITY REQUIREMENTS

NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;

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

5.4. maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;

5.5. provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);

5.6. take all reasonable measures to:

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

5.7. ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules and a key size of 128 bits or higher;

Commented [NJ(1)]: Talking with MCS 1/26 the Federal standard changed, therefore the State standard changed.

SCHEDULE E – DATA SECURITY REQUIREMENTS

5.8. ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML), Open Authentication (OAuth) or comparable State approved mechanisms;

5.9. ensure the Hosted Services implements NIST compliant multi-factor authentication for privileged/administrative and other identified access.

6. Security Accreditation Process. Throughout the Term, Contractor will assist the State, at no additional cost, with its **Security Accreditation Process**, which includes the development, completion and on-going maintenance of a system security plan (SSP) using the State's automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security controls within two weeks of the State's request. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames based on the risk level of the identified risk. For all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs and perform related remediation activities. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract.

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

8. Security Audits.

8.1. During the Term, Contractor will maintain complete and accurate records of its data protection practices, IT security controls, and the security logs relating to State Data, including but not limited to any backup, disaster recovery or other policies,

SCHEDULE E – DATA SECURITY REQUIREMENTS

practices or procedures relating to the State Data and any other information relevant to its compliance with this Contract.

8.2. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Contract. The State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. If the State chooses to perform an on-site audit, Contractor will, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Hosted Services and their housing facilities and operating environments.

8.3. During the Term, Contractor will, when requested by the State, provide a copy of Contractor's or Hosting Provider's FedRAMP System Security Plan(s) or SOC 2 Type 2 report(s) to the State within two weeks of the State's request. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.

8.4. With respect to State Data, Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

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

Section 8.

9. Application Scanning. During the Term, Contractor must, at its sole cost and expense, scan all Contractor provided applications, and must analyze, remediate and

SCHEDULE E – DATA SECURITY REQUIREMENTS

validate all vulnerabilities identified by the scans as required by the State Secure Web Application and other applicable PSPs.

Contractor's application scanning and remediation must include each of the following types of scans and activities:

9.1. Dynamic Application Security Testing (DAST) – Scanning interactive application for vulnerabilities, analysis, remediation, and validation (may include Interactive Application Security Testing (IAST)).

- (a) Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the Software using a State approved application scanning tool, and provide the State a vulnerabilities assessment after Contractor has completed such scan. These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) and for each major release; and ii) scans must be completed in a non-production environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.

9.2. Static Application Security Testing (SAST) - Scanning Source Code for vulnerabilities, analysis, remediation, and validation.

- (a) For Contractor provided applications, Contractor, at its sole expense, must provide resources to complete static application source code scanning, including the analysis, remediation and validation of vulnerabilities identified by application Source Code scans. These scans must be completed for all Source Code initially, for all updated Source Code, and for all Source Code for each major release and Contractor must provide the State a vulnerability assessment after Contractor has completed the required scans.

9.3. Software Composition Analysis (SCA) – Third Party and/or Open Source Scanning for vulnerabilities, analysis, remediation, and validation.

- (a) For Software that includes third party and open source software, all included third party and open source software must be documented and the source supplier must be monitored by the Contractor for notification of identified vulnerabilities and remediation. SCA scans may be included as part of SAST and DAST scanning or employ the use of an SCA tool to meet

SCHEDULE E – DATA SECURITY REQUIREMENTS

the scanning requirements. These scans must be completed for all third party and open source software initially, for all updated third party and open source software, and for all third party and open source software in each major release and Contractor must provide the State a vulnerability assessment after Contractor has completed the required scans if not provided as part of SAST and/or DAST reporting.

9.4. In addition, application scanning and remediation may include the following types of scans and activities if required by regulatory or industry requirements, data classification or otherwise identified by the State.

- (a) If provided as part of the solution, all native mobile application software must meet these scanning requirements including any interaction with an application programming interface (API).
- (b) Penetration Testing – Simulated attack on the application and infrastructure to identify security weaknesses.

10. Infrastructure Scanning.

10.1. For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by the State and used to track the remediation. Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

11. Nonexclusive Remedy for Security Breach.

11.1. Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

SCHEDULE E – DATA SECURITY REQUIREMENTS

SCHEDULE E, Attachment 1 – Tax Regulation, PCI Compliance, CEPAS, CMS and CJIS, etc....

Exhibit 1 to Schedule E – Disaster Recovery Plan

We understand the critical importance of safeguarding the State's operations against unforeseen disasters or disruptions, and this plan outlines our strategies and protocols for mitigating risks and swiftly recovering from any adverse events. Our systems utilize highly secured and replicated servers from AWS and Azure to ensure distributed and fault tolerant operations decoupled from a single centralized site.

Confidentiality and Security:

Our Disaster Recovery Plan (DRP) must be treated as confidential information and must be subject to stringent security measures to prevent unauthorized access or disclosure. We adhere to industry-standard security protocols and strictly control access to this sensitive documentation.

Overview of the Disaster Recovery Plan:

Our DRP is a comprehensive document that encompasses the following key components:

Risk Assessment: We conduct a thorough risk assessment to identify potential threats and vulnerabilities that could impact your operations. This includes natural disasters, cyberattacks, hardware failures, and more.

Business Impact Analysis: We evaluate the potential impact of these threats on your business processes, including downtime, data loss, financial implications, and regulatory compliance.

Recovery Strategies: We define recovery strategies tailored to each type of disaster or disruption identified in the risk assessment. This includes data backup and restoration plans, hardware redundancy, and failover procedures.

Data Backup and Recovery: We outline our data backup and recovery procedures, including the frequency of backups, data retention policies, and methods for rapid data restoration.

Infrastructure Redundancy: We describe our infrastructure redundancy measures, such as redundant servers, power supplies, and network connections, to ensure continuous service availability.

Testing and Validation: We detail our regular testing and validation processes to ensure the effectiveness of our DRP. This includes scheduled disaster recovery drills and simulations.

Communication Plan: We establish communication protocols for notifying stakeholders, employees, and customers in the event of a disaster. This includes contact lists and escalation procedures.

Training and Awareness: We emphasize the importance of employee training and awareness programs to ensure that all team members understand their roles and responsibilities during a disaster recovery scenario.

Documentation and Documentation Retrieval: We provide guidance on the secure storage of critical documentation and the methods for accessing this information during a disaster.

Continuous Improvement: Our DRP includes a commitment to continuous improvement, with periodic reviews and updates to adapt to evolving threats and technologies.

Our Disaster Recovery Plan (DRP) is a vital component of our commitment to delivering resilient and secure services. We are dedicated to safeguarding your operations and data from potential disruptions and ensuring that your systems can be restored promptly in the face of adversity.

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

Contract No. 240000000315

Charging Equipment for Battery-Electric Vehicles & Transit Buses

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

1. Equal Employment Opportunity

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

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

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

by the employer, or is consistent with the Contractor's legal duty to furnish information.

- 4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. Davis-Bacon Act (Prevailing Wage)

If this Contract is a **prime construction contract** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- 1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

3) Additionally, contractors are required to pay wages not less than once a week.

3. Copeland “Anti-Kickback” Act

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland “Anti-Kickback” Act ([40 USC 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- 1) **Contractor.** The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- 2) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- 3) **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

4. Contract Work Hours and Safety Standards Act

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- 1) **Overtime requirements.** No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

(in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- 3) **Withholding for unpaid wages and liquidated damages.** The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- 4) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. Rights to Inventions Made Under a Contract or Agreement

If the Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6. Clean Air Act and the Federal Water Pollution Control Act

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

Clean Air Act

1. The Contractor agrees to comply with all applicable standards, orders or

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

Federal Water Pollution Control Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

7. Debarment and Suspension

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549](#) ([51 FR 6370; February 21, 1986](#)) and [12689](#) ([54 FR 34131; August 18, 1989](#)), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- 1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

- 3) This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment
- 4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in Exhibit 1 – Byrd Anti-Lobbying Certification below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

9. Procurement of Recovered Materials

Under [2 CFR 200.322](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- 1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
- 2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

SCHEDULE F – FEDERAL PROVISIONS ADDENDUM

10. Additional FEMA Contract Provisions.

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

1) Access to Records. The following access to records requirements apply to this contract:

- a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed
- c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract
- d. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

2) Changes.

See the provisions regarding modifications or change notice in the Contract Terms.

3) DHS Seal Logo and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

4) Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

5) No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

6) Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

SCHEDULE G, EXHIBIT 1 BYRD ANTI-LOBBYING CERTIFICATION

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SCHEDULE G, EXHIBIT 1

BYRD ANTI-LOBBYING CERTIFICATION

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Schedule G – Federally Required Contract Clauses

SCHEDULE G

[Clear Form](#)

Michigan Department
of Transportation
3165 (11/19)

Attachment number or letter

MATERIALS AND SUPPLIES MORE THAN \$150,000

Page 1 of 12

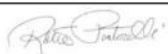
LOBBYING

Applicability – construction/architectural and engineering/acquisition of rolling stock/professional service contract/operational service contract/turnkey contracts over \$150,000. Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104- 65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR / COMPANY NAME
Unified Business Technologies, Inc.

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME Robert Pastorelli	TITLE Chief Operating Officer
SIGNATURE 	DATE 10/11/23

BUY AMERICA CERTIFICATION (STEEL AND MANUFACTURED PRODUCTS)

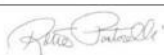
Applicability – construction contracts and acquisition of goods or rolling stock (valued at more than \$150,000) Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating or planning funds. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certificate of Compliance with Buy America Requirements.

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j) (1), and the applicable regulations in 49 CFR part 661.

CONTRACTOR / COMPANY NAME
Unified Business Technologies, Inc.

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME Robert Pastorelli	TITLE Chief Operating Officer
SIGNATURE 	DATE 10/11/23

Only sign either Certificate of **Compliance** or Certificate of **Non-Compliance**.

Certificate of Non-Compliance with Buy America Steel or Manufactured Products Requirements. The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE	
SIGNATURE	DATE	

GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)


Applicability – all contracts more than \$25,000.

The Recipient agrees to the following:

- (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
- (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

CONTRACTOR / COMPANY NAME
Unified Business Technologies, Inc.

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE	
Robert Pastorelli	Chief Operating Officer	
SIGNATURE 	DATE	
	10/11/23	

BREACHES AND DISPUTE RESOLUTION

Applicability – all contracts more than \$150,000.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

CLEAN AIR

Applicability – all contracts more than \$150,000.

1. Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
2. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

CLEAN WATER

Applicability – all contracts and Subcontracts more than \$150,000. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

FLY AMERICA REQUIREMENTS

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and

shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

CARGO PREFERENCE

Applicability – all contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall:

- a. Use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels;
- b. Furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading);
- c. Include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

ENERGY CONSERVATION

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

ACCESS TO RECORDS AND REPORTS

Applicability – as shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)(1), which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)(1), which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a) (1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11). FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

RECYCLED PRODUCTS

Applicability – all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

1. The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

1. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes,

it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

2. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n) (1) on contractor, to the extent the US Government deems appropriate.
3. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

TERMINATION

Applicability — all contracts more than \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000.

- a. **Termination for Convenience (General Provision)** the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.
- b. **Termination for Default [Breach or Cause] (General Provision)** If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- c. **Opportunity to Cure (General Provision)** the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d. **Waiver of Remedies for any Breach** In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. **Termination for Convenience (Professional or Transit Service Contracts)** the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. **Termination for Default (Supplies and Service)** If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to

comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

- g. Termination for Default (Transportation Services) if contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:
 - I. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
 - II. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.
- i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall:
 - I. Immediately discontinue all services affected (unless the notice directs otherwise), and
 - II. Deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. If, after termination for failure to fulfill

contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

- j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

Applicability – when a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines

otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program.

- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,
- c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
- d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: (1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: (1) Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 implement a DBE program approved by FTA, and 3 establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that

it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with

- Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,
- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,
 - i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,
 - j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
 - k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

DISADVANTAGED BUSINESS ENTERPRISE

Applicability – contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offers will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor

may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

PROMPT PAYMENT

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.