EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R9/1-04)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number:	2. Date prepared:
C1-6-TLM-09-05	6/1/2006

3. CONTRACTS & LEASES

X Professional/Personal Services	___ Contract for procured Services
___ Grant	___ Maintenance
___ Lease	___ License Agreement
___ Attorney	___ Amendment# _____
___ MOU	___ Renewal # _____
___ QPA	___ Other _____

FISCAL INFORMATION

4. Account Number:	5. Account Name:
6710-151000	DWD ADMIN FUNDS
6. Total amount this action: $23,900,000.00	7.New contract total: $23,900,000.00
8. Revenue generated this action: $0.00	9.Revenue generated total contract: $0.00

10.New total amount for each fiscal year :

Year 2005 $ 4,500,000.00 Year 2007 $ 5,760,000.00

Year 2006 $ 10,800,000.00 Year 2008 $ 2,840,000.00

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year):	12. To (month, day, year):
9/6/2005	12/31/2008

13. Method of source selection:

___ Bid/Quotation ___ Emergency ___ Negotiated

X RFP# N/A ___ Other *(specify)* ___ Special Prodrement

AGENCY INFORMATION

14. Name of agency:	15. Requisition Number:
Dept of Workforce Development	

16. Address: Department Workforce Development
Administration Office
10 N Senate Avenue, SE0015
Indianapolis, IN 46204-2201

AGENCY CONTACT INFORMATION

17. Name:	18. Telephone #:
JUDY FAIR	317/232-3555

19. E-mail address: JFAIR@DWD.IN.GOV

COURIER INFORMATION

20. Name:	21. Telephone #:
PAMELA GRENARD	317-234-3153

22. E-mail address: PGRENARD@DWD.IN.GOV

VENDOR INFORMATION

23 Vendor ID # 0000051544

24. Name:	25. Telephone #:
HAVERSTICK CONSULTING, I	317-218-1734

26. Address: 11405 N. PENNSYLVANIA ST.
#210
CARMEL, IN 46032

27. E-mail address: JON.KIZER@HAVERSTICKCONSULTING.COM

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) X Yes ___ No

29. Primary Vendor: M/WBE	30. If yes, list the %:
Minority: ___ Yes X No	Minority: _____ %
Women: ___ Yes X No	Women: _____ %
31 Sub Vendor:M/WBE	32. If yes, list the %:
Minority: X Yes ___ No	Minority: 10.0 %
Women: X Yes ___ No	Women: 10.0 %
33. Is there Renewal Language in the document? ___ Yes X No	34. Is there a "Termination for Convenience" clause in the document? X Yes ___ No

35. Will the attached document involve data processing or telecommunications systems(s)? ___ Yes: IOT or Delegate has signed off on contract

36. Statutory Authority *(Cite applicable Indiana or Federal Codes)*:

37. Description of work and justification for spending money. *(Please give a brief description of the scope of work included in this agreement.)*

IDWD RELEASED A REQUEST FOR PROPOSALS (RFP) FOR THE UNEMPLOYMENT INSURANCE MODERNIZATION (UIM) PROJECT. THIS PROJECT IS A MULTI-YEAR INITIATIVE TO MODERNIZE AND REPLACE A 17-YEAR-OLD UNEMPLOYMENT INSURANCE (UI) COMPUTER SYSTEM IN ORDER TO MAXIMIZE SERVICES TO ALL CUSTOMERS WHILE STREAMLINING INTERNAL IDWD

38. Justification of vendor selection and determination of price reasonableness:

THE UIM STEERING COMMITTEE AWARDED THE UIM PROJECT CONTRACT TO HAVERSTICK CONSULTING, INC (HAVERSTICK) AND ITS PARTNERS, INCLUDING TIER TECHNOLOGIES, INC, NUMBER SIX SOFTWARE, CREW TECHNICAL SERVICES AND SOURCE. THE HAVERSTICK PROPOSAL SCORED EQUALTO OR HIGHER THAN ALL OTHER PROPOSALS IN EVERY MEASURABLE

39. If this contract is submitted late, please explain why: *(Required if more than 30 days late.)*

40. Agency fiscal officer or representative approval	41. Date Approved	42. Budget agency approval	43. Date Approved
44.Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

Amendment #2

This is an amendment to the contract entered into by and between **Department of Workforce Development** (hereinafter referred to as "State") and **Haverstick Consulting, Inc.** (hereinafter referred to as "Contractor") dated 9/06/05.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

Whereas, the parties desire to amend the Contract to revise Exhibit C, see attached Exhibit C revised 02/28/06.

All other matters previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in full force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of the agreement.

In Witness Whereof, Grantee and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

Contractor:
Haverstick Consulting, Inc.
By: [signature]
Printed Name: Eric H. Weber
Title: CFO
Date: 3/15/06

Dept. of Workforce Development
Monty W. Combs for
Ronald L. Stiver
Commissioner
Date: 3/21/06

Department of Administration
Susan St. Cyr FOR
Earl A. Goode
Commissioner
Date: 3-27-2006

State Budget Agency
Rel Sl by
Charles E. Schalloil
Director
Date: 3/28/06

Approved as to form and legality

Stephen Carter
Attorney General
Date:

Information Technology Oversight Commission

Commission Chairperson
Date:

3-16-06

Amendment #2

This is an amendment to the contract entered into by and between **Department of Workforce Development** (hereinafter referred to as "State") and **Haverstick Consulting, Inc.** (hereinafter referred to as "Contractor") dated 9/06/05.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

Whereas, the parties desire to amend the Contract to revise Exhibit C, see attached Exhibit C revised 02/28/06.

All other matters previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in full force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of the agreement.

In Witness Whereof, Grantee and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

Contractor:
Haverstick Consulting, Inc.
By: E. H. Weber
Printed Name: Eric H. Weber
Title: CFO
Date: 3/15/06

Dept. of Workforce Development
Monty W. Combs
fo Ronald L. Stiver
Commissioner
Date: 3/21/06

Department of Administration
Susan M. Good FOR
Earl A. Goode
Commissioner
Date: 3-27-2006

State Budget Agency
Rhl Sl.
Charles E. Schalloil
Director
Date: 3/28/06

Approved as to form and legality

Stephen Carter
Attorney General
Date: 4-30-06

Information Technology Oversight Commission

Commission Chairperson
Date:

Craig 3-16-06

EXHIBIT C - REVISED 2/28/06
UIM PAYMENT SCHEDULE

Month / Deliverable	Deliverable Amount
September 2005	
Initiation	$1,750,000
Monthly Total	**$1,750,000**
November 2005	
QW Project Planning	$127,023
QW CSS HLUC for UI Connect Starting Point	$158,778
QW CSS Descibed LLUC for UI Connect Starting Point	$95,267
QW ESS HLUC for UI Connect Starting Point	$158,778
QW ESS Described LLUC for UI Connect Starting Point	$95,267
Monthly Total	**$635,113**
December 2005	
QW ESS Prototype for UI Connect Starting Point	$187,448
QW CSS Prototype for UI Connect Starting Point	$210,879
Project Office Structure	$70,293
Monthly Total	**$468,620**
January 2006	
QW CSS Login Use Cases for UIM	$57,843
QW CSS Claims Weekly Benefit Use Cases for UIM	$86,765
QW ESS Quarterly Reporting Use Cases for UIM	$173,530
QW Imaging Use Cases	$57,843
QW Workflow Use Cases	$86,765
QW Data Capture On-Site Analysis	$115,687
Monthly Total	**$578,433**
February 2006	
QW CSS Login Development	$87,129
QW CSS UIM Process Flows	$304,953
Remaining QW CSS UIM Use Cases	$130,694
QW ESS UIM Use Cases for Login, Employer Summary, Employer Registration and Agent Registration	$217,823
QW Data Capture Detailed System Design	$130,694
Monthly Total	**$871,293**
March 2006	
QW ESS Login (Add, Edit, Delete Accounts) Development	$208,503
QW Workflow Design	$198,574
QW Imaging Design	$198,574
QW Imaging and Workflow Test Cases	$89,358
Core Benefits High Level Use Case Domain Model (Pre Gap)	$148,931
Core Tax High Level Use Case Domain Model (Pre Gap)	$148,931
Monthly Total	**$992,871**

EXHIBIT C - REVISED 2/28/06
UIM PAYMENT SCHEDULE

April 2006	
QW CSS Claimant Registration Development	$89,356
QW ESS Homepage Development	$89,356
QW ESS Employer Registration Development	$89,356
QW ESS Agent Registration Development	$89,356
QW ESS Employer Profile Maintenance Development	$89,356
Tax Registration Use Case Artifacts (Post Gap)	$44,679
Tax Registration Storyboards (Post Gap)	$134,034
Tax Rating & Profile Maintenance Use Case Artifacts (Post Gap)	$44,679
Tax Rating & Profile Maintenance Storyboards (Post Gap)	$134,034
Initial Detailed Project Plans for Tax, Benefits, and Appeals	$89,356
Monthly Total	**$893,562**
May 2006	
QW CSS Claim Homepage Development	$70,688
QW CSS UIM to Legacy Conversion Delivery	$44,180
QW ESS File Contribution Reports Development	$70,688
QW ESS File Wage Reports Development	$70,688
QW ESS Submit Payments Development	$70,688
QW ESS View Employer Summary Development	$70,688
QW Imaging Development	$70,688
QW Workflow Development	$70,688
Appeals High Level Use Case Domain Model (Pre Gap)	$150,213
Benefits Apply for Benefits Storyboards (Post Gap)	$132,543
Domain Charters for Tax, Benefits, and Appeals	$61,852
Monthly Total	**$883,604**
June 2006	
QW Implementation Plan for CSS and ESS	$95,272
QW CSS Apply for Benefits, Claim Weekly Benefits Development	$129,298
QW ESS UIM to Legacy Conversion Delivery	$61,247
Tax Correspondence, Quarterly Reporting & Adjustment Use Case Artifacts (Post Gap)	$95,272
Tax Correspondence, Quarterly Reporting & Adjustment Storyboards (Post Gap)	$129,298
Appeals Storyboards (Post Gap)	$170,130
Monthly Total	**$680,517**
July 2006	
QW CSS Final UAT	$169,034
QW CSS Deployment	$67,614
QW ESS Final UAT	$169,034
QW Implementation Plan for Data Capture, Imaging & Workflow	$101,421
Benefits Monetary Storyboards (Post Gap)	$169,034
Monthly Total	**$676,137**
August 2006	
QW ESS Deployment	$73,575
QW Imaging System Testing	$171,676
QW Workflow System Testing	$171,676
QW Data Capture Final UAT	$106,275
Tax Registration Development (1)	$106,275
Benefits Monetary Use Case Artifacts (Post Gap)	$188,026
Monthly Total	**$817,503**

EXHIBIT C - REVISED 2/28/06
UIM PAYMENT SCHEDULE

September 2006	
QW Imaging and Workflow Final UAT	$97,812
QW Data Capture, Imaging & Workflow Deployment	$71,729
Tax Collections, Refunds & Certifications Use Case Artifacts (Post Gap)	$65,209
Tax Registration Development (2)	$71,729
Benefits Interface Supplementary Specifications (Pre Gap)	$91,291
Benefits Crossmatch Supplementary Specifications (Pre Gap)	$91,291
Appeals Use Case Artifacts (Post Gap)	$163,020
Monthly Total	**$652,081**
October 2006	
QW CSS Mass Layoff Development	$92,405
QW CSS Mass Layoff Final UAT	$53,903
Tax Collections, Refunds & Certifications Storyboards (Post Gap)	$107,806
Tax Rating & Profile Maintenance Development	$61,603
Benefits Apply for Benefits Use Case Artifacts (Post Gap)	$77,004
Benefits File Weekly Claims Use Case Artifacts (Post Gap)	$77,004
Benefits Claimant Account Storyboards (Post Gap)	$123,206
Benefits Federal Reports Storyboards (Post Gap)	$123,206
UIU Readiness Assessment Report #1	$53,903
Monthly Total	**$770,040**
November 2006	
QW CSS Mass Layoff Deployment	$99,235
Benefits Interface Use Case Artifacts (Post Gap)	$178,624
Benefits Claimant Account Use Case Artifacts (Post Gap)	$224,933
Benefits Crossmatch Use Case Artifacts (Post Gap)	$158,776
Monthly Total	**$661,568**
December 2006	
Tax Correspondence, Quarterly Reporting & Adjustments Development	$134,177
Appeals Request Hearing Development	$134,177
Appeals Prepare for Hearing Development	$134,177
Appeals Conduct Hearing Development	$134,177
Appeals Create Appeals Packet Development	$134,177
Monthly Total	**$670,885**
January 2007	
Benefits Construction 1	$699,782
UIU Readiness Assessment Report #2	$52,672
Monthly Total	**$752,454**
February 2007	
Tax Collections, Refunds & Certifications Development	$126,920
Core Tax Elaboration 3	$719,214
Monthly Total	**$846,134**
March 2007	
Core Benefits Construction 2	$882,079
Monthly Total	**$882,079**
April 2007	
Core Appeals Construction 1	$342,579
Core Tax Construction 1	$513,868
Monthly Total	**$856,447**

EXHIBIT C - REVISED 2/28/06
UIM PAYMENT SCHEDULE

May 2007	
Core Benefits Construction 3	$591,947
Remaining ESS Elaboration 1	$253,691
Monthly Total	**$845,638**
June 2007	
Core Tax Construction 2	$681,761
Remaining CSS Elaboration 1	$292,184
Monthly Total	**$973,945**
July 2007	
Core Benefits Construction 4	$392,529
Core Appeals Construction 2	$305,300
Remaining ESS Construction 1	$174,457
Monthly Total	**$872,286**
August 2007	
Core Tax Construction 3	$674,935
Remaining CSS Construction 1	$224,978
Monthly Total	**$899,913**
September 2007	
Core Benefits Construction 5	$726,065
Monthly Total	**$726,065**
October 2007	
Core Tax Construction 4	$738,435
Remaining ESS Transition 1	$184,609
Monthly Total	**$923,044**
November 2007	
Core Benefits Construction 6	$388,974
Core Appeals Construction 3	$311,178
Remaining CSS Transition 1	$77,795
Monthly Total	**$777,947**
December 2007	
Core Tax Transition 1	$675,050
Monthly Total	**$675,050**
January 2008	
Core Benefits Transition 1	$853,569
Monthly Total	**$853,569**
February 2008	
Core Tax Transition 2	$253,512
Core Appeals Transition 1	$136,506
Monthly Total	**$390,018**
March 2008	
Core Benefits Transition 2	$77,698
Production Deployment	$116,547
Turnover of Final Project Plans and Supporting Data	$25,899
Final Acceptance	$38,822
Monthly Total	**$258,966**

April 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
May 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
June 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
July 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
August 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
September 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
October 2008	
Partial Warranty Period	**$0**
November 2008	
Partial Warranty Period	**$0**
December 2008	
Partial Warranty Period	**$0**
January 2009	
Partial Warranty Period	**$0**
February 2009	
Partial Warranty Period	**$0**
March 2009	
Partial Warranty Period	**$0**
Project Total	**$23,900,000**

EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R9/1-04)

Instructions for completing the EDS and the Contract Process

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments /renewals, attach original contract.
5. Attach additional pages if necessary.

2-17 BW

1. EDS Number:	2. Date prepared:
C1-6-TLM-09-05	December 5, 2005

3. CONTRACTS & LEASES

- [X] Professional/Personal Services
- [ ] Grant
- [ ] Lease
- [ ] Attorney
- [ ] MOU
- [ ] QPA
- [ ] Contract for Procured Services
- [ ] Maintenance
- [ ] License Agreement
- [X] Amendment# 1
- [ ] Renewal #
- [ ] Other

FISCAL INFORMATION

4. Account Number:	5. Account Name:
6710-151000	DWD Admin Funds
6. Total Amount this action: $0.00	7. New contract total: $23,900,000.00
8. Revenue generated this action: $0.00	9. Revenue generated total contract: $0.00

10. New total amount for each fiscal year:

Year 05 $ 4,500,000.00 Year 07 $ 5,760,000.00

Year 06 $ 10,800,000.00 Year 08 $ 2,840,000.00

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year):	12. To (month, day, year):
09/06/05	12/31/08

13. Method of source selection:

- [ ] Bid/Quotation
- [ ] Negotiated
- [X] RFP#
- [ ] Emergency
- [ ] Special Procurement
- [ ] Other (*specify*)

AGENCY INFORMATION

14. Name of agency:	15. Requisition Number:
Department of Workforce Development	

16. Address:
10 N. Senate Ave.
Indianapolis, IN 46204

AGENCY CONTACT INFORMATION

17. Name:	18. Telephone #:
Judy Fair	317-232-3555

19. E-mail address: jfair@dwd.in.gov

COURIER INFORMATION

20. Name:	21. Telephone #:
Teresa Bucker	317-233-0052

22. E-mail address: tbucker@dwd.in.gov

VENDOR INFORMATION

23. Taxpayer Identification Number: 35-1938389

24. Name:	25. Telephone #:
Haverstick Consulting, Inc.	317-218-1734

26. Address:
11405 N Pennyslvania, Suite 210
Carmel, In 46032

RECEIVED JAN 06 2006 OGC ADVISORY

27. E-mail address: jon.kizer@haverstickconsulting.com

28. Is the vendor registered with the Secretary of State? (*Out of State Corporations, must be registered*) [X] Yes [ ] No

29. Primary Vendor: M/WBE	30. If yes, list the %
Minority: [ ] Yes [X] No	Minority: ____ %
Women: [ ] Yes [X] No	Women: ____ %
31. Sub Vendor: M/WBE	30. If yes, list the %
Minority: [X] Yes [ ] No	Minority: 10 %
Women: [X] Yes [ ] No	Women: 10 %
33. Is there Renewal Language in the document? [ ] Yes [X] No	34. Is there a "Termination for Convenience" clause in the document? [X] Yes [ ] No

35. Will the attached document involve data processing or telecommunications system(s)? [ ] Yes: ITOC or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):

37. Description of work and justification for spending money. (*Please give a brief description of the scope of work included in this agreement.*)
This Amendment to the current contract is to change the payment schedule. IDWD released a request for proposals ("RFP") for the Unemployment Insurance Modernization ("UIM") Project. This project is a multi-year initiative to modernize and replace a 17-year-old unemployment insurance ("UI") computer system in order to maximize servies to all customers while streamlining internal IDWD processes. Utilizing innovative technology implemented through the UIM Project, IDWD customers will have 24/7 access for self-service and IDWD personnel will have the tools necessary to provide premiere customer service to UI claimants and employers alike.

38. Justification of vendor selection and determination of price reasonableness:
The UIM Steering Committee awarded the UIM Project contract to Haverstick Consulting, Inc. ("Haverstick") and its partners, including Tier Technologies, Inc., Number Six Software, Crew Technical Services and Source. The Haverstick proposal scored equal to or higher than all other proposals in every measurable category. The Haverstick proposal was over $7 million less than the second place bidder. The Haverstick team brings an already developed framework for UI functions, and has more experience in UI Projects and with the necessary software tools than any other bidder.

39. If this contract is submitted late, please explain why: (*Required if more than 30 days late.*)

Received
DEC 16 2005
IDOA Contracts

40. Agency fiscal officer or representative approval	41. Date Approved	42. Budget agency approval	43. Date Approved
	12-9-05		12-29-05
44. Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved
CAB	1-25-06		

JUSTIFICATION FOR UIM CONTRACT AMENDMENT

Contract Number – C1-6-TLM-09-05
Project and Function Code – 8715-400

The UIM contract is being amended to reflect a revised payment schedule for deliverables. The original UIM Project Plan was based on an implementation date of April 2008. The Project Plan was revised to enable the new UIM system to be implemented in phases (Quick Wins) over the next 2 ½ years. The phased implementation resulted in a revised schedule for delivery of the interim deliverables to accomplish the Quick Wins. Therefore the UIM contract needs to be amended to reflect the new payment schedule for deliverables.

Amendment #1

This is an amendment to the contract entered into by and between **Department of Workforce Development** (hereinafter referred to as "State") and **Haverstick Consulting, Inc.** (hereinafter referred to as "Contractor") dated 9/06/05.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

Whereas, the parties desire to amend the Contract to revise Exhibit C, see attached Exhibit C revised 11/16/05.

All other matters previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in full force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of the agreement.

In Witness Whereof, Grantee and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

Contractor:
Haverstick Consulting, Inc.
By: Eric H. Weber
Printed Name: Eric H. Weber
Title: CFO
Date: 12/2/05

Dept. of Workforce Development
Monty W. Combs
Ronald L. Stiver
Commissioner
Date: 12/15/05

Department of Administration
Earl A. Goode FOR
Earl A. Goode
Commissioner
Date: 12-19-05

State Budget Agency
Charles E. Schalloil
Director
Date: 12-29-05

Approved as to form and legality
Elizabeth A. Brown for
Stephen Carter
Attorney General
Date: 1-25-06

Information Technology Oversight Commission
N/A
Commission Chairperson
Date:

12-9-05

EXHIBIT C
Payment Schedule
Revised 11/16/05

UIM Payment Schedule

	Deliverable Amount
September 2005	
Initiation	$1,750,000
Monthly Total	**$1,750,000**
November 2005	
Quick Wins Project Planning	$127,023
Quick Wins CSS High Level Use Cases for UI Connect Starting Point	$158,778
Quick Wins CSS Described Low Level Use Cases for UI Connect Starting Point	$95,267
Quick Wins ESS High Level Use Cases for UI Connect Starting Point	$158,778
Quick Wins ESS Described Low Level Use Cases for UI Connect Starting Point	$95,267
Monthly Total	**$635,114**
December 2005	
Quick Wins ESS Prototype for UI Connect Starting Point	$187,448
Quick Wins CSS Prototype for UI Connect Starting Point	$210,879
Project Office Structure	$70,293
Monthly Total	**$468,619**
January 2006	
Quick Wins CSS Login Low Level Use Case	$57,843
Quick Wins CSS Claims/Cert Low Level Use Case	$86,765
Quick Wins ESS File Contribution Reports, File Wage Reports, Submit Payments Low Level Use Cases	$173,530
Quick Wins Imaging Use Cases	$57,843
Quick Wins Workflow Use Cases	$86,765
Quick Wins Data Capture On-Site Analysis	$115,687
Monthly Total	**$578,433**
February 2006	
Quick Wins CSS Login Completed	$87,129
Quick Wins CSS Claimant Process Flows	$130,694
Remaining Quick Wins CSS Low Level Use Cases	$130,694
Remaining Quick Wins CSS Process Flows	$174,259
Quick Wins ESS Login, Employer Registration, Profile Maintenance, Rating Low Level Use Cases	$217,823
Quick Wins Data Capture Detailed System Design	$130,694
Monthly Total	**$871,293**
March 2006	
Quick Wins ESS File Wage Report Completed	$248,218
Quick Wins Workflow Design	$198,574
Quick Wins Imaging Design	$148,931
Quick Wins Imaging and Workflow Test Cases	$148,931
Core Benefits Inception 1	$248,218
Monthly Total	**$992,871**
April 2006	
Quick Wins CSS Design Model and Business Rules	$134,034
Quick Wins ESS File Contribution Report Completed	$223,391
Quick Wins ESS Login (Add, Edit, Delete Accounts) Completed	$89,356
Quick Wins ESS Employer Home Page Completed	$89,356
Quick Wins Data Capture Configuration Development	$134,034
Core Tax Inception 1	$223,391
Monthly Total	**$893,562**

EXHIBIT C
Payment Schedule
Revised 11/16/05

UIM Payment Schedule

	Deliverable Amount
May 2006	
Quick Wins CSS Conversion Acceptance	$88,360
Quick Wins ESS Submit Employer Payment Completed	$176,721
Quick Wins ESS Conversion Acceptance	$88,360
Quick Wins Imaging Development	$132,541
Quick Wins Workflow Development	$176,721
Core Benefits Inception 2	$220,901
Monthly Total	**$883,604**
June 2006	
Quick Wins CSS Apply for Benefits, Claim Weekly Benefits, Respond to Request for Info, Claimant Registration & Maintenance Completed	$170,129
Quick Wins ESS Determine Initial Tax Rate Completed	$102,078
Core Tax Inception 2	$204,155
Core Appeals Inception 1	$204,155
Monthly Total	**$680,517**
July 2006	
Quick Wins CSS Final UAT	$67,614
Quick Wins CSS Deployment	$67,614
Quick Wins ESS Employer Registration Completed	$101,421
Quick Wins ESS Employer Profile Maintenance Completed	$101,421
Quick Wins ESS View Employer Summary Completed	$67,614
Quick Wins Imaging Testing	$67,614
Quick Wins Workflow Testing	$67,614
Quick Wins iCapture Training	$33,807
Core Benefits Elaboration 1	$101,421
Monthly Total	**$676,137**
August 2006	
Quick Wins ESS Final UAT	$81,750
Quick Wins ESS Deployment	$81,750
Quick Wins Imaging System Testing	$122,625
Quick Wins Workflow System Testing	$122,625
Quick Wins Data Capture Final UAT	$122,625
Quick Wins Data Capture Deployment	$81,750
Core Tax Elaboration 1	$204,376
Monthly Total	**$817,503**
September 2006	
Quick Wins Imaging and Workflow Final UAT	$65,208
Quick Wins Imaging and Workflow Deployment	$163,020
Core Appeals Elaboration 1	$195,624
Core Benefits Elaboration 2	$228,229
Monthly Total	**$652,081**
October 2006	
Core Benefits Elaboration 3	$770,040
Monthly Total	**$770,040**

EXHIBIT C
Payment Schedule
Revised 11/16/05

UIM Payment Schedule

	Deliverable Amount
November 2006	
Core Tax Elaboration 2	$363,862
Core Benefits Elaboration 4	$297,706
Monthly Total	**$661,568**
December 2006	
Core Appeals Elaboration 2	$670,885
Monthly Total	**$670,885**
January 2007	
Core Benefits Construction 1	$752,454
Monthly Total	**$752,454**
February 2007	
Core Tax Elaboration 3	$846,134
Monthly Total	**$846,134**
March 2007	
Core Benefits Construction 2	$882,079
Monthly Total	**$882,079**
April 2007	
Core Appeals Construction 1	$342,579
Core Tax Construction 1	$513,868
Monthly Total	**$856,447**
May 2007	
Core Benefits Construction 3	$591,947
Remaining ESS Elaboration 1	$253,691
Monthly Total	**$845,638**
June 2007	
Core Tax Construction 2	$681,761
Remaining CSS Elaboration 1	$292,183
Monthly Total	**$973,945**
July 2007	
Core Benefits Construction 4	$392,529
Core Appeals Construction 2	$305,300
Remaining ESS Construction 1	$174,457
Monthly Total	**$872,286**
August 2007	
Core Tax Construction 3	$674,935
Remaining CSS Construction 1	$224,978
Monthly Total	**$899,913**
September 2007	
Core Benefits Construction 5	$726,035
Monthly Total	**$726,035**
October 2007	
Core Tax Construction 4	$738,436
Remaining ESS Transition 1	$184,609
Monthly Total	**$923,044**

UIM Payment Schedule

	Deliverable Amount
November 2007	
Core Benefits Construction 6	$388,974
Core Appeals Construction 3	$311,179
Remaining CSS Transition 1	$77,795
Monthly Total	**$777,947**
December 2007	
Core Tax Transition 1	$675,050
Monthly Total	**$675,050**
January 2008	
Core Benefits Transition 1	$853,569
Monthly Total	**$853,569**
February 2008	
Core Tax Transition 2	$253,512
Core Appeals Transition 1	$136,506
Monthly Total	**$390,018**
March 2008	
Core Benefits Transition 2	$77,698
Production Deployment	$116,547
Turnover of Final Project Plans and Supporting Data	$25,899
Final Acceptance	$38,849
Monthly Total	**$258,992**
April 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
May 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
June 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
July 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
August 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**
September 2008	
Warranty Period	$60,703
Monthly Total	**$60,703**

UIM Payment Schedule

	Deliverable Amount
October 2008	
Partial Warranty Period	$0
Monthly Total	**$0**
November 2008	
Partial Warranty Period	$0
Monthly Total	**$0**
December 2008	
Partial Warranty Period	$0
Monthly Total	**$0**
January 2009	
Partial Warranty Period	$0
Monthly Total	**$0**
February 2009	
Partial Warranty Period	$0
Monthly Total	**$0**
March 2009	
Partial Warranty Period	$0
Monthly Total	**$0**
Project Total	**$23,900,000**

EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R9/1-04)

Instructions for completing the EDS and the Contract Process

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments /renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number:	2. Date prepared:
C1-6-TLM-09-05	September 6, 2005

3. CONTRACTS & LEASES

- [X] Professional/Personal Services
- [ ] Grant
- [ ] Lease
- [ ] Attorney
- [ ] MOU
- [ ] QPA
- [ ] Contract for Procured Services
- [ ] Maintenance
- [ ] License Agreement
- [ ] Amendment# _____
- [ ] Renewal # _____
- [ ] Other _____

FISCAL INFORMATION

4. Account Number:	5. Account Name:
6710-151000	DWD Admin Funds
6. Total Amount this action:	7. New contract total:
$23,900,000.00	$23,900,000.00
8. Revenue generated this action:	9. Revenue generated total contract:
$0.00	$0.00

10. New total amount for each fiscal year:

Year 05 $ 4,500,000.00 Year 07 $ 5,760,000.00

Year 06 $ 10,800,000.00 Year 08 $ 2,840,000.00

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year):	12. To (month, day, year):
09/06/05	12/31/08

13. Method of source selection:

- [ ] Bid/Quotation
- [ ] Negotiated
- [X] RFP# 5-13
- [ ] Emergency
- [ ] Special Procurement
- [ ] Other (*specify*) _____

AGENCY INFORMATION

14. Name of agency:	15. Requisition Number:
Indiana Department of Workforce Development	

16. Address:
10 N Senate Avenue
Indianapolis, IN 46204

AGENCY CONTACT INFORMATION

17. Name:	18. Telephone #:
Judy Fair	317-232-3555

19. E-mail address: jfair@dwd.in.gov

COURIER INFORMATION

20. Name:	21. Telephone #:
Pamela Grenard	317-234-3153

22. E-mail address: pgrenard@dwd.in.gov

VENDOR INFORMATION

23. Taxpayer Identification Number: 35-1938389

24. Name:	25. Telephone #:
Haverstick Consulting Inc	317-218-1734

26. Address:
11405 N Pennsylvania, Suite 210
Carmel, IN 46032

27. E-mail address: jon.kizer@haverstickconsulting.com

28. Is the vendor registered with the Secretary of State? (*Out of State Corporations, must be registered*) [X] Yes [ ] No

29. Primary Vendor: M/WBE	30. If yes, list the %
Minority: [ ] Yes [X] No	Minority: _____ %
Women: [ ] Yes [X] No	Women: _____ %
31. Sub Vendor: M/WBE	30. If yes, list the %
Minority: [X] Yes [ ] No	Minority: 10 %
Women: [X] Yes [ ] No	Women: 10 %
33. Is there Renewal Language in the document? [ ] Yes [X] No	34. Is there a "Termination for Convenience" clause in the document? [X] Yes [ ] No

35. Will the attached document involve data processing or telecommunications system(s)? [ ] Yes: ITOC or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):

37. Description of work and justification for spending money. (*Please give a brief description of the scope of work included in this agreement.*)

IDWD released a request for proposals ("RFP") for the Unemployment Insurance Modernization ("UIM") Project. This project is a multi-year initiative to modernize and replace a 17-year-old unemployment insurance ("UI") computer system in order to maximize services to all customers while streamlining internal IDWD processes. Utilizing innovative technology implemented through the UIM Project, IDWD customers will have 24/7 access for self-service and IDWD personnel will have the tools necessary to provide premiere customer service to UI claimants and employers alike.

38. Justification of vendor selection and determination of price reasonableness:

The UIM Steering Committee awarded the UIM Project contract to Haverstick Consulting, Inc. ("Haverstick") and its partners, including Tier Technologies, Inc., Number Six Software, Crew Technical Services and Source. The Haverstick proposal scored equal to or higher than all other proposals in every measurable category. The Haverstick proposal was over $7 million less than the second place bidder. The Haverstick team brings an already developed framework for UI functions, and has more experience in UI projects and with the necessary software tools than any other bidder.

39. If this contract is submitted late, please explain why: (*Required if more than 30 days late.*)

Received
SEP 09 2005
IDOA Contracts

40. Agency fiscal officer or representative approval	41. Date Approved	42. Budget agency approval	43. Date Approved
Monty W. Combs	9/8/05		
44. Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

UNEMPLOYMENT INSURANCE MODERNIZATION AGREEMENT

This UNEMPLOYMENT INSURANCE MODERNIZATION AGREEMENT (the "**Agreement**") is entered into as of September 6, 2005 (the "**Effective Date**") by and between HAVERSTICK CONSULTING, INC., an Indiana corporation with its principal office at 11405 North Pennsylvania Street, Suite 210, Carmel, Indiana 46032 ("**Haverstick**"), and THE STATE OF INDIANA, acting through the INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT, with its principal office at 10 N. Senate Avenue, Indianapolis, Indiana 46204 ("**State**").

RECITALS

1. State desires to modernize the State's unemployment insurance ("**UI**") system through the implementation of a UI Modernization Project ("**UIM**").
2. To further this goal, in October of 2004, State released a request for proposals ("**RFP**") for a UIM vendor, thereby commencing a competitive bid process.
3. As a result of that competitive bid process, State desires to engage Haverstick and Haverstick will subcontract certain functions to Tier Technologies, Inc. ("**Tier**"), to develop and implement an integrated tax and benefits UI system as contemplated by the RFP (the "**UIM System**") pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of these mutual promises and undertakings of the parties, and for other good and valuable consideration, receipt of which is hereby acknowledged, State and Haverstick agree as follows:

AGREEMENT

Article 1. SERVICES

Section 1.1 **Services**. Haverstick agrees to perform for State the program development and implementation services identified in the Statement of Work attached as **Exhibit A** (the "**SOW**"). The services identified in the SOW are collectively referred to as the "**Services**." In the event of a conflict in the provisions of the SOW and the provisions set forth in this Agreement, the provisions of this Agreement shall govern.

Section 1.2 **Post Implementation Support**. Haverstick shall provide State with the post-implementation support set forth Section 4.1.19 of the SOW for a period of one hundred eighty (180) calendar days following Final Acceptance (as defined in Section 3.4 below).

Section 1.3 **Flow Down.** Except as expressly noted in this Agreement, Haverstick's subcontract with Tier shall contain terms and conditions which are substantially similar to those in this Agreement.

Section 1.4 **Performance Assignment.** The State may, in its sole discretion, invoke this provision in the event of (i) Haverstick's insolvency (defined to mean that Haverstick experiences a financial condition in which it is unable to meet its matured obligations in the ordinary course of business) or (ii) Haverstick's failure to meet four (4) consecutive Interim Deliverable due dates pursuant to Exhibit C, as the same may be amended from time to time, following written notice within ninety (90) days of the fourth such failure. Following an occurrence of either (i) or (ii) above and upon the written request and consent of State, Haverstick shall assign its rights and delegate its obligations under this Agreement to Tier, and Tier shall consent to such assignment and assumes all of Haverstick's obligations (the "**Assignment**"), provided that:

- The Assignment shall include only that portion of this Agreement as originally executed between Haverstick and State, and any change order, amendment or other modification of this Agreement that Tier agreed upon in writing (the "**Prime Contract**");
- The Assignment shall require that Tier perform only Services and/or provide the Deliverables that were Haverstick's responsibility under the Prime Contract and which were incomplete as of the effective date of the Assignment;
- The Assignment shall be effective only upon: (i) State issuing to Haverstick and Tier a prior written notice of its intent to invoke this provision, which notice shall identify specifically and in detail the reason under which State is invoking the Assignment, and (ii) the lapse of at least forty-five (45) business days to cure such circumstance after issuing the written notice of intent. In the event the circumstance referenced in the prior sentence is not timely cured, then, there shall be a forty-five (45) business days transition period pursuant to which Haverstick, Tier and State shall cooperate in transitioning the obligations of Haverstick under the Agreement to Tier (the "**Transition Period**");
- The schedule for the parties to perform the Prime Contract shall be extended on a day-for-day basis for the length of the forty-five day cure period and the Transition Period without liability to either party;
- Tier shall not be liable under the Assignment for claims, demands, damages, penalties or other liability to the extent arising from or out of Haverstick's performance of the Prime Contract prior to the effective date of the Assignment, including, but not limited, to claims for liquidated damages, breach of contract, breach of confidentiality, breach of warranty or requests for indemnification. State shall look exclusively to Haverstick, and not Tier, on all such matters not assigned to Tier; and
- Haverstick shall not be liable under the Assignment for claims, demands, damages, penalties or other liability to the extent arising from or out of Tier's performance of the Prime Contract after the effective date of the Assignment, including, but not limited, to claims for liquidated damages, breach of contract, breach of confidentiality, breach of warranty or requests for indemnification. State shall look exclusively to Tier, and not Haverstick, on all such matters assigned to Tier.

Tier shall not be required to use Haverstick's Key Personnel in performing its obligations under the Assignment and shall not incur any liquidated damages for failure to use and/or replace such Key Personnel to the extent Tier otherwise performs the Prime Contract, as amended.

Section 1.5 **Changes in the Scope of Work**. State has the right to request change orders relating to either an increase or decrease in the scope or duration of the Services or the nature of the Deliverables (as hereinafter defined in Section 3.1) provided by Haverstick. After State makes such a request to Haverstick, Haverstick shall, within six (6) business days, provide notice to the UIM Project Manager employed by State (the "**State Project Manager**") in writing of any proposed change in fees and/or schedule that would result from State's requested change order.

Haverstick also has the right to propose change orders relating to either an increase or decrease in the scope or duration of the Services or the nature of the Deliverables provided by Haverstick; however, State shall not be bound by any change order proposed by Haverstick until such change order has been accepted in writing by the State Project Manager.

Any additional Services resulting from a change order will be priced on a mutually negotiated basis between the parties and must be authorized, in writing, by the State Project Manager. No change order shall be made without prior written approval executed by all signatories hereto.

Article 2. STAFFING AND KEY PERSONNEL

Section 2.1 **Generally.** Except to the extent prohibited by applicable laws and the respective personnel policies of Haverstick and its subcontractors, State shall have the right to request and receive relevant background information and credentials in the possession of Haverstick and/or its subcontractors concerning personnel performing, or proposed by Haverstick to perform, the Services. In the event that State notifies Haverstick that any personnel performing Services hereunder are found to be unacceptable to State, Haverstick shall immediately take appropriate corrective actions and, within a commercially reasonable period of time, replace such personnel with similarly qualified personnel. All Services provided hereunder shall be performed in the State of Indiana unless specifically stated otherwise in the SOW.

Section 2.2 **Key Personnel.** Haverstick and State agree that certain individuals are essential to this Agreement (the "**Key Personnel**") and that substitution of any such Key Personnel for another individual shall not be permitted without the prior written consent of the State Project Manager pursuant to the procedure set forth below, which consent shall not be unreasonably withheld.

For purposes of this Agreement, Key Personnel are identified in **Exhibit B** attached hereto and incorporated by reference herein. In its sole discretion, State has determined that Exhibit B contains trade secret information that, pursuant to IC § 5-14-3-4(a)(4), State will not disclose in response to a request for public records unless and until specifically ordered to do so by a court or other governmental body or otherwise required by law. Haverstick may not divert (as defined below) Key Personnel for any period of time except in accordance with the procedure identified in this Section 2.2. Haverstick shall provide a notice of proposed diversion of Key Personnel to the State Project Manager at least thirty (30) calendar days in advance of a Key Personnel diversion, together with the name and qualifications of the person(s) that Haverstick proposes to take the place of the diverted Key Personnel. At least fourteen (14) calendar days before the proposed diversion or replacement, the State Project Manager shall notify Haverstick whether the proposed replacement is approved, which approval shall not be unreasonably withheld.

In all circumstances, Key Personnel shall be replaced only with persons of equal ability and qualifications. State shall have the right to conduct separate interviews of proposed replacements for Key Personnel and all Key Personnel replacements must be approved in advance in writing by the State Project Manager.

"Divert" or "diversion" is defined as the transfer of Key Personnel by Haverstick or its subcontractors to another assignment within the control of Haverstick or such subcontractor. "Divert" or "diversion" does not include the removal of an employee pursuant to a request by State, or the resignation, death, disablement, or dismissal or removal for cause of an employee or for other reasons which are beyond the control of Haverstick or its subcontractors.

Diversion of Key Personnel will cause significant damage to State that would be difficult to estimate. Therefore, State and Haverstick agree that any such diversion of any Key Personnel will result in the imposition of liquidated damages in the amount of $8,000 per business day for each diverted Key Personnel identified in Exhibit B as a Tier One (1) Key Personnel; $3,000 per business

day for each diverted Key Personnel identified in Exhibit B as a Tier Two (2) Key Personnel; and $2,000 per business day for each diverted Key Personnel identified in Exhibit B as a Tier Three (3) Key Personnel. The parties agree that the application of such liquidated damages does not constitute a penalty. Liquidated damages shall begin to accrue on the first business day of the diversion and shall continue to accrue each business day until the replacement Key Personnel is accepted by State and commences to perform the Services. In the event that Haverstick fails to replace diverted Key Personnel within sixty (60) business days, such failure shall constitute grounds for Termination for Default under Section 10.2. State may deduct amounts due as liquidated damages under this Section 2.2 from any outstanding amounts due and owing from State to Haverstick. Payment of liquidated damages pursuant to this Section 2.2 shall be the exclusive remedy of State for the diversion of Key Personnel.

Any Key Personnel being diverted shall continue to be available on-site at State for at least two (2) weeks prior to his/her departure date. Haverstick shall provide State with reasonable access to any diverted Key Personnel after such Key Personnel's departure date.

Except as otherwise mutually agreed upon in advance by Haverstick and the State Project Manager in their reasonable discretion, the individuals identified in Exhibit B as Tier One or Tier Two Key Personnel shall be available to perform the Services on a full-time basis for the term of this Agreement and, in addition to any other individuals deemed to be devoted to the Services on a full-time basis by both Haverstick's and State's Project Managers, must generally be available at the site designated by State during the hours of the day between 8:30 a.m. and 4:00 p.m. (Indiana time), Monday through Friday. The individuals identified in Exhibit B as Tier Three Key Personnel must be at the site designated by State as State's and Haverstick's Project Managers mutually deem reasonably necessary.

Section 2.3 **Independent Contractor**. It is the express intention of the parties that Haverstick and is subcontractors constitute State's independent contractors and are not employees, agents, joint venturers or partners of State for purposes of any federal, state or local income, employment or other taxes, or for any other purpose, including, for purposes of participation in and eligibility for benefits under any employee benefit or compensation plan, program or arrangement offered by State or any other agency of State. Haverstick covenants and agrees to inform, and to cause its subcontractors to inform, all personnel that no employment relationship between such personnel and State exists, is intended or should be construed, and that no employment benefits will be provided by State to such personnel.

Article 3. DELIVERABLES; ACCEPTANCE

Section 3.1 **Delivery**. Haverstick shall deliver, in accordance with the timeline, terms and conditions set forth in this Agreement and the SOW, all those goods or services specified as deliverables under the SOW, including but not limited to all software object and source code, as set forth in the SOW, to be delivered by Haverstick as part of the Services, any and all related Work Product (as defined in Section 8.1) and all materials provided by Haverstick in performance of the Services (the "**Deliverables**") by the dates specified in the SOW. Final implementation of the UIM System shall occur on or before April 30, 2008 (the "**Implementation Date**").

Section 3.2 **Interim Testing and Review.** The State Project Manager and appropriate information technology managers shall review and accept interim Deliverables delivered pursuant to

the timeline set forth in the SOW (the "**Interim Deliverables**") within fifteen (15) business days after completion of each Interim Deliverable ("**Acceptance**"). Review and acceptance of such Interim Deliverables shall be completed based upon written acceptance procedures mutually agreed upon for each Interim Deliverable no later than sixty (60) calendar days prior to the delivery date for that Interim Deliverable set forth in Exhibit C.

Section 3.3 **Acceptance of Interim Deliverables.** If State reasonably determines that such Interim Deliverables comply with the foregoing mutually agreed upon acceptance procedures, or otherwise decides, in its sole discretion, to accept the Interim Deliverables, State shall notify Haverstick of its Acceptance. Payment by State of any fees or other consideration associated with a given Interim Deliverable to Haverstick or use of such Interim Deliverable by State prior to Acceptance shall not constitute Acceptance of that Interim Deliverable.

Section 3.4 **Final Acceptance**. State shall be entitled to perform a final acceptance review upon completion of the Services to determine whether the Final Deliverables, identified as such in the SOW, comply with any and all requirements, specifications and criteria set forth in the SOW and otherwise meet State's reasonable satisfaction (the "**Final Acceptance Review**"). The State Project Manager shall review the Final Deliverables within sixty (60) calendar days after completion of the Services. State shall notify Haverstick of acceptance or rejection of the Final Deliverables in writing. Payment by State of any fees or other consideration to Haverstick or use of the Final Deliverables by State prior to acceptance will not constitute State's acceptance of such Final Deliverables. Unless otherwise set forth in the SOW, if the Final Deliverables, or any portion thereof, fail the Acceptance Review and are not accepted by State: (i) within fifteen (15) business days (or such other time period as is mutually agreed upon by the parties) after receipt of State's notice of such failure, Haverstick shall cure all deficiencies, at no additional cost to State; and (ii) within thirty (30) calendar days after such cures have been made, State will review the relevant Final Deliverables. If the Final Deliverables still fail Acceptance Review, Haverstick shall be granted an additional five (5) business days to correct the Final Deliverables, at no additional cost to State. If the Final Deliverables fail Acceptance Review after the second iteration, State may, in its sole discretion: (A) grant Haverstick additional time to cure the outstanding deficiencies at no additional cost to State; or (B) without prejudice to any of State's other rights and remedies under this Agreement or at law or in equity, terminate the SOW (or portion thereof) and this Agreement and (1) return the rejected Final Deliverables to Haverstick, in which case Haverstick shall refund promptly any fees or other consideration paid to Haverstick (if any) for such rejected Final Deliverables; or (2) retain the rejected Final Deliverables (in which case State's rights, title and interest in the rejected Deliverables shall be the same as if such Final Deliverables had been accepted) and pay to Haverstick a lesser value than would have been paid had the Final Deliverables been accepted, such lesser value to be mutually agreed upon by the parties.

The parties agree that Haverstick's failure to complete the Services by the Implementation Date will cause significant damage to State that would be difficult to estimate. Therefore, the parties agree that, to the extent that Haverstick fails to complete the Services by the Implementation Date, Haverstick shall pay State liquidated damages in the amount of $10,000 per business day. Aggregate liquidated damages under this Section 3.4 shall not exceed 10% of the total Agreement Price, as amended. Liquidated damages shall begin accruing on May 1, 2008 if Deliverables are not completed or, sixty (60) days thereafter, if Deliverables are completed but not accepted by State. Payment of liquidated damages pursuant to this Section 3.4 shall be the exclusive remedy of State for a delay in the Implementation Date; however, if the Deliverables have not been delivered and passed Acceptance Review upon exhaustion of the liquidated damages under this Section 3.4, the parties

agree that Haverstick shall be otherwise deemed in default of this Agreement pursuant to Section 10.2.

Article 4. FEES AND INVOICING

Section 4.1 **Fees.** The fees for the Services performed under this Agreement and the SOW are set forth in the SOW. Remuneration to Haverstick under this Agreement shall not exceed Twenty-Three Million, Nine Hundred Thousand Dollars ($23,900,000) (the "**Agreement Price**"). Notwithstanding anything to the contrary in this Agreement: (a) Haverstick shall not be entitled to any compensation for, and shall not invoice State with respect to, Services performed to cure any deficiencies in any Deliverable; and (b) unless otherwise set forth in the SOW, no fees will accrue, or be due or owed, with respect to any Services unless and until State: (i) accepts the relevant Deliverables; or (ii) retains the relevant rejected Interim Deliverables pursuant to Section 3.2 or the Deliverables pursuant to Section 3.4 and the parties mutually agree to a value for such Deliverables.

Section 4.2 **Payments.** All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, by electronic funds transfer to the financial institution designated by Haverstick in writing unless a specific waiver has been obtained from the Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement.

Section 4.3 **Invoices**. Upon Acceptance of an Interim Deliverable, or, as appropriate, Final Acceptance, Haverstick may submit to the controller of IDWD a correct, detailed, and itemized invoice of charges based on the payment schedule set forth in **Exhibit C** attached hereto and incorporated by reference herein. State may withhold payment of particular charges that State disputes in good faith, pending resolution of any dispute. Haverstick shall not suspend or discontinue the Services pending resolution of such good faith dispute.

Section 4.4 **10% Holdback.** State shall hold back 10% of the total amount of each invoice submitted (in aggregate, the "**Holdback**"). Upon Final Acceptance, State shall release the Holdback to Haverstick.

Section 4.5 **Taxes.** State is exempt from state, federal, and local taxes. State shall not be responsible for any taxes levied on Haverstick or its subcontractors as a result of this Agreement.

Section 4.6 **Out of Pocket Expenses**. State shall not be responsible for any out pocket expenses, including travel, of Haverstick or its subcontractors whatsoever.

Article 5. WARRANTIES

Section 5.1 **Services Personnel**. Haverstick represents, warrants and covenants to State that all personnel assigned to perform Services hereunder shall have the proper and necessary skill, training and background so as to be able to perform the Services in a professional and workmanlike manner.

Section 5.2 **Deliverables.** Haverstick warrants to State that, for a period of six (6) months following the Final Acceptance (the "**Warranty Period**"), all Deliverables will function properly and in conformity with such Deliverables' applicable requirements, specifications, and documentation. Upon receipt of written notice by State of a breach of this warranty within the Warranty Period, Haverstick shall promptly use reasonable commercial efforts to remedy such breach at no additional cost or expense to State. In the event that Haverstick, after using reasonable commercial efforts, is unable to remedy such breach within thirty (30) calendar days, Haverstick shall, at State's reasonable

direction, either (a) purchase and implement a reasonable substitute in the marketplace at no cost or expense to State, or (b) refund the amount paid by State for such Deliverable. The foregoing shall be State's sole and exclusive remedy for any breach of warranty claim.

Any reports or one time annual processes which are not executed within the Warranty Period shall be designated the "**Extended Warranty Items**." Haverstick's warranty for the Extended Warranty Items shall be extended by the greater of an additional six (6) months from expiration of the Warranty Period or to twenty (20) calendar days after the completion of the initial execution of the report or process (the "**Extended Warranty Period**").

Notwithstanding the foregoing, Haverstick shall have no obligation or liability to State under this warranty for any non-conformity caused by: (a) any portion of the Deliverables that is modified or altered without Haverstick's authorization; (b) use of the Deliverables other than as specified in this Agreement; or (c) combining the Deliverables with other hardware or software not supplied by Haverstick or Tier or authorized by Haverstick or Tier in writing.

Section 5.3 **Right to Use and License; No Infringement**. Haverstick represents, warrants and covenants to State that: (a) Haverstick is either the owner of the right to use (or authorized to use and, when necessary, is authorized to grant to State the right to use) all software, hardware, methods, methodologies, and Third Party Materials (as defined in Section 9.1) used in connection with the Services that are not otherwise owned or licensed by State; (b) Haverstick is the sole creator of the Work Product (as defined in Section 8.1), has not previously published the Work Product and has not made any commitment for the use or publication of the Work Product, the Services or any Deliverable (or part thereof); (c) the Services and Work Product do not and will not contain any matter which is contrary to applicable law; (d) the receipt or use of any Services and/or any Work Product by State does not and will not infringe, or constitute an infringement, a misappropriation or an unauthorized use of (or permit any third party to make a claim against State with respect to) any patent, copyright, trademark, trade secret, license or other property or proprietary right of any third party and there are no claims, demands or proceedings that have been instituted, or are pending or threatened, by any person against Haverstick or, to Haverstick's knowledge, any subcontractor of Haverstick, alleging any matter contrary to the foregoing; and (e) all Deliverables will function properly and in conformity with such Deliverable's applicable requirements, specifications and documentation.

Section 5.4 **Disclaimer of Implied Warranties.** THE PARTIES HEREBY AGREE THAT UPON THE EXPIRATION OF THE WARRANTY PERIOD, OR, WITH RESPECT TO THE EXTENDED WARRANTY ITEMS, THE EXTENDED WARRANTY PERIOD, ALL WARRANTIES IN CONNECTION WITH THE SERVICES, EXPRESS OR IMPLIED, SHALL CEASE AND SHALL BE EXPRESSLY DISCLAIMED BY HAVERSTICK, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE.

Article 6. INDEMNIFICATION

Section 6.1 **Generally**. Except as otherwise provided in Section 6.2, Haverstick shall indemnify, defend, save and hold harmless State and its agents, officials, employees, customers, consultants, third-party service providers, (the "**State Indemnities**") from and against all third party claims, allegations, causes of action, or demands that are presented to or brought against one or more of the State Indemnities, and any losses, liabilities, damages, lost premium, fines, penalties,

assessments and/or related costs and/or expenses (including, but not limited to, reasonable attorneys' fees, expert fees, court costs, reasonable costs of investigation, litigation, settlement, judgment, appeal, interest, and/or penalties to enforce any right under this Agreement) (the "**Losses**"), solely to the extent in each case, caused by any act or omission of Haverstick and/or its subcontractors, if any, which causes personal injury (including death), damage to tangible property, or employment-related injury (including, but not limited to, any injury relating to sexual harassment, discrimination, and worker's compensation). The State shall **not** provide such indemnification to Haverstick.

Section 6.2 **IP Indemnification**. Subject to the limitations set forth below, Haverstick, at no additional cost to State, agrees to indemnify and hold the State Indemnities harmless from any and all liabilities and expenses, including without limitation, reasonable attorneys' fees, expenses, costs, judgments, settlements, contract losses, or other costs, solely to the extent in each case, arising out of, in connection with or relating to any third party claim that the Deliverables or Work Product infringe upon or violate any patent, copyright, trademark, service mark, or trade secret of any third party. Haverstick will have no liability for, and no obligation to defend State against any claim of infringement to the extent such claim is based on (i) use of a superseded or altered release of any Deliverable if the infringement would have been avoided by the use of a current unaltered release of the Deliverable made available to State, in advance of such claim, at no additional cost and capable of performing the same function as the original Deliverable; (ii) the combination, operation, or use of the Deliverable with other software, hardware or other materials not contemplated by the Agreement or any related documentation or approved by Haverstick if such infringement would have been avoided by the use of the Deliverable without such combination, operation, or use with such software, hardware or other materials; (iii) use of the Deliverable in other than its specified operating environment, or other than in accordance with its published specifications, if any, if such infringement would have been avoided but for such use; or (iv) any modification of the Deliverable not made by Haverstick nor approved by Haverstick (which approval shall be deemed given for any modification occurring prior to Final Acceptance). If any Work Product or Deliverable becomes, or in Haverstick's opinion is likely to become, the subject of an allegation, demand, claim or action described above for infringing upon or violating any patent, copyright, trademark, servicemark or trade secret of any third party, Haverstick may, at its option: (i) modify such Work Product or Deliverable to make it non-infringing, non-violating and non-misappropriating or cure any claimed unauthorized use, provided such modification does not adversely affect the functionality of the Work Product or Deliverable; (ii) procure for State and its affiliates (as applicable) the right to continue using the Work Product or Deliverable; or (iii) replace the Work Product or Deliverable with substantially equivalent equipment or Services that are non-infringing, non-violating and non-misappropriating and that are free of claimed unauthorized use. Any costs associated with implementing any of the above alternatives (including business transition and training Services) shall be borne by Haverstick.

Section 6.3 **Process**. If a State Indemnities seek indemnification under this Agreement, they shall give Haverstick: (a) reasonably prompt notice of the relevant claim; provided, however, that failure to provide such notice shall not relieve Haverstick of its liability or obligation under this Agreement except to the extent Haverstick is materially prejudiced as a direct result of such failure, and (b) reasonable cooperation in the defense of such claim. Haverstick shall have the right to control the defense and settlement of such claim; provided, however, that: (i) the relevant State Indemnities shall be entitled to participate in the defense of such claim and to employ counsel at their own expense to assist in the handling of such claim; and (ii) Haverstick shall obtain the prior written approval of all relevant State Indemnities before entering into any settlement of such claim or ceasing to defend against such claim.

Article 7. LIMITATION ON LIABILITY

SECTION 7.1 **Limitation**. EXCEPT TO THE EXTENT OF HAVERSTICK'S INDEMNITY OBLIGATIONS UNDER ARTICLE 6 OF THIS AGREEMENT AND FOR ANY BREACHES OF CONFIDENTIALITY UNDER ARTICLE 10 OF THIS AGREEMENT, FOR WHICH HAVERSTICK'S LIABILITY SHALL BE WITHOUT LIMIT, THE PARTIES AGREE THAT HAVERSTICK'S LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED 200% OF THE AGREEMENT PRICE. IN NO EVENT SHALL HAVERSTICK BE LIABLE FOR LOST PROFITS OR ANY PUNITIVE OR CONSEQUENTIAL DAMAGES OF WHATEVER NATURE ARISING OUT OF OR RELATING TO THIS AGREEMENT.

Article 8. INTELLECTUAL PROPERTY

Section 8.1 **Certain Definitions**. As used herein: (a) the term "**Intellectual Property Rights**" means any and all intellectual property rights existing from time to time under any law or regulations, including, but not limited to: (i) patent law (including, but not limited to, rights under patents, letters patent, inventor's certificates, continued prosecution applications, requests for continued examination, and other similar filings or stages thereof provided for under the laws of the United States, or of any other country), copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law (together with all of the goodwill associated therewith), unfair competition law, publicity rights law, or privacy rights law and/or any and all other proprietary rights; and (ii) any and all applications, renewals, provisionals, substitutions, extensions, reissues, restorations, divisions or continuations (in whole or in part) of any of the foregoing, now or hereafter in force and effect worldwide; and (b) the term "**Work Product**": (i) means all tangible and intangible results of the Services, including, but not limited to, any and all software object and source code, computer system designs, documentation, any writings of any kind, user interfaces, audio-visual works, "look and feel," artwork, illustrations, images, photographs, printed or graphic matter, trademarks (including service marks, trade dress, trade names, logos, corporate names, and Internet domain names), copyrights and copyrightable works, preparatory materials, charts, diagrams, memoranda, drafts, sketches, outlines, developments, materials, data, inventions (whether patentable or not), improvements, processes, discoveries, ideas, know-how, techniques, formulae, compositions, methodologies, program materials, notes, lists, compilations, manuscripts, pictorial materials, schematics, drawings, specifications, blueprints, flowcharts, schematics, protocols, designs, design rights, plans, business plans, proposals, technical data, financial and marketing plans and customer and supplier lists and information, and other items, created, developed or supplied in connection with the Services; and (ii) notwithstanding the foregoing, shall not include: (A) previously published work or those pre-existing concepts, ideas, models, know-how, software, methodologies, technologies or techniques owned by Haverstick or its subcontractors that are either identified in the SOW or licensed to State pursuant to a separate license agreement ("**Haverstick Materials**"); or (B) those materials that are specifically listed in the SOW as belonging to a third party (including data, content, development tools, system tools, software, compilers, or diagnostics) that Haverstick represents to State are incorporated into, or are otherwise necessary to create, use, modify, reproduce, or maintain any Work Product or provide the Services, and which require rights licenses, permissions, or other clearances to be obtained from a third party ("**Third Party Materials**").

Section 8.2 **Ownership of the Work Product**. Upon payment of all amounts due and owing therefore, State shall be the sole and exclusive owner of all right, title, interest and ownership throughout the world in any Work Product, and all Intellectual Property Rights in and to the Work Product. Upon receipt of payment of all amounts due and owing therefore, Haverstick shall

immediately and irrevocably assign to State, agrees to assign without further consideration to State and agrees to cause each subcontractor to irrevocably assign to Haverstick who will in turn assign to State, any and all right, title, interest and ownership throughout the world in any Work Product, and all Intellectual Property Rights in and to the Work Product created by Haverstick or any subcontractor. Haverstick agrees, and Haverstick shall cause each subcontractor to agree, that, to the fullest extent permitted under the United States or other relevant Copyright Act or law, upon payment of all amounts due and owing therefore, State will be the sole owner of the copyright to the Work Product, and that Haverstick shall develop such Work Product as "work made for hire" (as defined in 17 U.S.C. §101). Upon payment of all amounts due and owing therefore, all uses of any trademarks, service marks and trade names in the Work Product, and the goodwill associated therewith, whether by Haverstick or third parties, inures and will inure to the benefit of State.

Section 8.3 **License Back.** Tier shall have an exclusive, perpetual, irrevocable, royalty-free, world-wide, transferable license to use, distribute, maintain, reproduce, modify, or create derivative works from the Work Product and the State Materials.

Section 8.4 **Use of Work Product and State's Materials**. During the performance of this Agreement and prior to Final Acceptance of those materials developed or supplied hereunder, Haverstick shall be responsible for any loss of or damage to those materials developed for or supplied by State and used to develop or assist in the Services provided while the materials are in the possession of Haverstick. Any loss or damage thereto prior to Final Acceptance shall be restored at Haverstick's expense. The term "**State Materials**" means any and all data, designs, specifications, inventions, discoveries, improvements, processes, methodologies, ideas, know-how, techniques, materials, program materials, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, trademarks and service marks, and other items, supplied by State to Haverstick in connection with the Services hereunder. As between State and Haverstick, State will retain all title to all Work Product and State Materials and all embodiments thereof, including all copies thereof and all Intellectual Property Rights inherent in such Work Product and State Materials. Except as otherwise stated herein, Haverstick will not, by virtue of this Agreement or otherwise, acquire any Intellectual Property Rights whatsoever in Work Product or State Materials.

Section 8.5 **License to Haverstick Materials**. Upon payment of all amounts due and owing therefore, Haverstick shall grant to State a non-exclusive, perpetual, irrevocable, royalty-free, world-wide, non-transferable (except as set forth below) right and license to use, maintain, reproduce, modify or create derivative works from (in any and all media) Haverstick Materials incorporated into or otherwise necessary to use, modify, reproduce, or maintain any Work Product (a) for the internal use of State or any agency thereof, or (b) for the benefit of any other state to the extent required by the United States Department of Labor, or (c) otherwise in commerce in the normal course of State's business, provided that State's right to modify, maintain or create derivative works from any Haverstick Materials is limited to its use solely within or in connection with the Work Product. The license granted in this Section 8.5 includes the right of an unlimited number of employees of State to use, maintain, reproduce, modify or create derivative works (in any and all media) from such Haverstick Materials within or in connection with the Work Product (such modifications and enhancements, the "**State Modifications**"). State shall own all right, title and interest in and to State Modifications, including all Intellectual Property Rights in and to State Modifications. Any modifications, improvements, or amendments to any Haverstick Materials will be solely owned by Haverstick only if such improvements, amendments or modifications are not included or incorporated in any way in any Work Product.

Section 8.6 **Third Party Materials.** Unless it obtains State's prior written approval, in performing the Services, Haverstick shall not use any Third Party Materials (including any software or work subject to an open source license): (a) to which a license is required in order to use any Deliverables; (b) the terms of which impose any restrictions on the use of any Deliverables, or (c) the terms of which in any way limit State's Intellectual Property Rights in any Work Product. Haverstick shall clearly identify in the SOW all Third Party Materials and State's need and responsibility to license such software prior to Haverstick's inclusion of the software in the Work Product.

Section 8.7 **Information Technology Accessibility**. If Haverstick provides any information technology related products or Services to State, Haverstick shall comply with all Indiana Office of Technology ("IOT") standards, policies, and guidelines, which are online at http://iot.in.gov/architecture/. Haverstick specifically agrees that all hardware, software, and Services provided to or purchased by State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 749d) and IC § 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. State may terminate this contract for default if Haverstick fails to cure a breach of this provision within a reasonable time. Where the parties mutually agree, the Indiana Department of Workforce Development shall use its reasonable best efforts to obtain the requisite waiver from IOT.

Article 9. INSURANCE AND BONDING

Section 9.1 **Required Coverage.** Haverstick shall secure and maintain at its own cost and expense during the entire term of this Agreement, the following minimum insurance coverage for any and all claims of any nature that may in any manner arise out of or result from this Agreement:

- Professional (errors and omissions) liability with limits of $5,000,000 for each wrongful act and $5,000,000 total limit of insurance.
- Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of $500,000 per person and $1,000,000 per occurrence unless additional coverage is required by State.
- Automobile liability with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
- Haverstick shall provide proof of such insurance coverage by tendering to the undersigned State representative, a certificate of insurance prior to the commencement of this Agreement. Worker's compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, an "all states endorsement" covering claims occurring outside State if any of the Services provided under this Agreement involve work outside of Indiana.

Section 9.2 **Additional Requirements.** Haverstick's insurance coverage must meet the following additional requirements:

- Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of Haverstick.
- State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by Haverstick in excess of the minimum requirements set forth above. The duty to indemnify State under this Agreement shall not be limited by the insurance required in this Agreement.

- The insurance required in this Agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- Failure to provide insurance as required in this Agreement may be deemed a material breach of contract entitling State to immediately terminate this Agreement.
- Haverstick shall furnish a certificate of insurance and all endorsements to the undersigned State agency prior to the commencement of this Agreement.

Section 9.3 **Performance Bond.** Haverstick shall obtain and maintain, or shall cause Tier to obtain and maintain, a performance bond, or an irrevocable letter of credit drawn on a FDIC-insured financial institution located in the United States and preferably with an Indiana presence, in the amount of 10% of the Agreement Price. The Performance Bond shall be obtained within ten (10) calendar days of the Effective Date and shall be made payable to the Indiana Department of Administration ("**IDOA**") and shall be in the form of a certified check, cashier's check, or a bond acquired from a surety company registered with the Indiana Department of Insurance, and written on such bond company's standard form. The Performance Bond may be annually renewable, but shall be renewed without lapse for the duration of the Agreement. Notwithstanding any other provisions relating to the beginning of the Agreement term, this Agreement shall not become effective until the Performance Bond is delivered in the correct form and amount to IDOA. The Performance Bond should be submitted to:

Procurement Division
Indiana Department of Administration
402 West Washington Street, W468
Indianapolis, IN 46204

Article 10. TERMINATION

Section 10.1 **Termination Rights.** Haverstick shall continue providing the Services, in accordance with the schedule set forth in the SOW until termination of this Agreement. This Agreement and the SOW will terminate on the earlier of: (a) Haverstick's successful completion of all Services and State's Acceptance of all such Deliverables in accordance with the terms of Section 3.4; or (b) at the request of State in accordance with the termination provisions contained herein.

Section 10.2 **Termination for Default.** With the provision of thirty (30) days notice to Haverstick, State may terminate this Agreement in whole or in part if Haverstick fails to correct or cure any material breach of this Agreement.

If State terminates this Agreement in whole or in part, it may acquire, under the terms and in the manner State considers appropriate, Work Product or Services similar to those terminated, and Haverstick will be liable to State for any excess costs for that Work Product or those Services. However, Haverstick shall continue the work not terminated.

State shall pay the Agreement price for completed Work Product delivered and Services accepted. Haverstick and State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute that shall be governed under Article 10. State may withhold from these amounts any sum State determines necessary to protect State against loss because of outstanding liens or claims of former lien holders.

The rights and remedies of State in this clause are in addition to any other rights and remedies provided by law or equity or under this Agreement.

Section 10.3 **Termination for Convenience**. This Agreement may be terminated, in whole or in part, by State whenever, for any reason, State determines that such termination is in its best interest. Termination of the Services shall be effected by delivery to Haverstick of a Termination Notice at least sixty (60) days prior to the termination effective date, specifying the extent to which performance of the Services under such termination becomes effective.

Section 10.4 **Effect of Termination; Survival**. Upon termination: (a) State agrees to pay Haverstick for all acceptable Services performed and not rejected pursuant to the terms hereof, and Deliverables Accepted pursuant to Section 3.2 hereof (if any), up to the effective date of termination; and (b) Haverstick shall promptly, at no cost to State: (i) refund to State the pro-rata portion of any prepaid and unearned fees; and (ii) return or destroy State's Confidential Information (as such term is defined below). Haverstick shall be compensated for Services properly rendered prior to the effective date of termination, including for the pro-rata value of any Interim Deliverables in progress since the date of the last Approval, such pro-rata value to be mutually agreed upon by the parties. State shall not be liable for any Services performed after the effective date of termination. Haverstick shall be compensated for any Services herein provided but in no case shall total payment made to Haverstick exceed the Agreement Price or shall any price increase be allowed on individual line items. The following Articles and Section of this Agreement will survive termination of this Agreement: Article 5, Article 6, Article 7, Article 11, and Section 13.1.

Section 10.5 **Funding Cancellation**. In the event that the Director of the State Budget Agency (the "**Budget Director**") makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled, which cancellation shall have the same effects as if the Agreement were terminated for convenience. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

Section 10.6 **Force Majeure**. In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (a "**Force Majeure Event**"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

Article 11. CONFIDENTIALITY

Section 11.1 **Confidential Information.** "**Confidential Information**" means and includes all records containing trade secrets (including but not limited to any information relating to either party's business, operations or activities, information concerning either party's present or proposed products, product developments, plans, strategies, personnel, supply usage, business goals, finances, know-how, sales, customers, and marketing or sales techniques); computer programs, computer codes, computer filing systems, and other software that are owned by State or entrusted to it; personnel records or notes; deliberative material; and material specifically marked "Confidential". All State obligations within this Section 11.1 are valid only to the extent permissible by IC § 5-14-3 or any other applicable law. Either party agrees to treat as confidential any Confidential Information

that is transmitted by one party (the "**Disclosing Party**") to another (the "**Receiving Party**"). The Receiving Party expressly undertakes to retain in confidence and not to disclose to any third party any Confidential Information received from the Disclosing Party hereunder. The Receiving Party further agrees to make no use of the Disclosing Party's Confidential Information except as necessary to exercise the rights or fulfill the obligations expressly granted under this Agreement or the SOW. The Receiving Party shall take reasonable steps to prevent unauthorized disclosure or use of the Disclosing Party's Confidential Information and to prevent such Confidential Information from falling into the public domain or into the possession of any unauthorized person. Except as otherwise required in accordance with IC § 5-14-3, the Receiving Party shall not disclose Confidential Information of the Disclosing Party to any person or entity other than its officers, employees, consultants, contractors and legal or accounting advisors who need access to such Confidential Information in order to effect the intent of this Agreement and who are bound to treat as confidential the Confidential Information of the Disclosing Party. The Receiving Party shall immediately give notice to the Disclosing Party of any unauthorized use or disclosure of Disclosing Party's Confidential Information and, to the extent reasonably practicable, any request for Confidential Information through a public records' request or other like request. The Receiving Party agrees to assist the Disclosing Party in remedying such unauthorized use or disclosure of its Confidential Information.

Section 11.2 **UI Confidential Information**. Haverstick shall agree to be bound by and shall instruct all personnel with access to any UI information of the type set forth in IC § 22-4-19-6 regarding the confidential nature of that information, the requirements of this Agreement and the sanctions specified at IC § 22-4-19-6 against unauthorized disclosure of such information and any other relevant state statutes.

Section 11.3 **Exceptions**. Confidential Information shall not include information that (a) was in the public domain at or subsequent to the time it was communicated to the Receiving Party by the Disclosing Party through no fault of the Receiving Party; (b) was rightfully in the Receiving Party's possession free of any obligation of confidence at or subsequent to the time such portion was communicated to the Receiving Party by the Disclosing Party; (c) was developed by employees or agents of the Receiving Party independently of and without reference to any information communicated to the Receiving Party by the Disclosing Party; or (d) was communicated by the Disclosing Party to an unaffiliated third party free of any obligation of confidence.

Section 11.4 **Authorized Disclosure**. A disclosure by each of the parties, as Receiving Party, of Confidential Information of the other party, as Disclosing Party, either (a) in response to a valid order by a court or other governmental body, or (b) otherwise required by law, shall not be considered to be a breach of this Agreement by such Receiving Party or a waiver of confidentiality for other purposes.

Article 12. DISPUTE RESOLUTION

Section 12.1 **Timeliness of Dispute Resolution.** Should any disputes arise with respect to this Agreement, Haverstick and State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

Section 12.2 **Dispute Resolution Procedure.** Haverstick agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Agreement that are not affected by the dispute. Should Haverstick fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional

costs incurred by State or Haverstick as a result of such failure to proceed shall be borne by Haverstick. To the extent any dispute cannot be resolved through negotiations between the parties, the following procedure shall apply:

(a) The parties agree to resolve such matters through submission of their dispute to the Commissioner of IDOA. The IDOA Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to Haverstick and State within ten (10) working days after presentation of such dispute for action. The IDOA Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the IDOA Commissioner, within ten (10) working days after receipt of the IDOA Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the IDOA Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

(b) State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by State to Haverstick of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for Haverstick to terminate this Agreement, and Haverstick may bring suit to collect these amounts without following the disputes procedure contained herein.

Section 12.3 **Equitable Relief.** Notwithstanding anything in this Article 12 to the contrary, in no event shall either party be prohibited or delayed from seeking injunctive or equitable relief during its participation in the dispute resolution process set forth herein.

Article 13. MISCELLANEOUS

Section 13.1 **Access to Records; Audits.** Haverstick shall maintain, and shall cause its subcontractors to maintain, all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. Haverstick or, as appropriate, its subcontractors shall make such materials available at their respective offices at all reasonable times during the term of this Agreement, and for three (3) years from the date of final payment under this Agreement, for inspection by the State or its authorized designees. Copies, if requested, shall be furnished at no cost to the State.

Following the expiration of this Agreement, upon the request of State acting on its own behalf or on behalf of the United States Department of Labor, Haverstick shall arrange and pay for a financial and compliance audit of funds provided by State pursuant to this Agreement. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Guidelines for Financial Examination of Entities Receiving Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of Institutions of Higher Education and Other Non-Profit Organizations). Haverstick is responsible for ensuring that the audit and any management letters are completed and forwarded to State in accordance with the terms of this Agreement. Audits conducted pursuant to this paragraph must be submitted no later than six (6) months following the close of Haverstick's fiscal year. Haverstick agrees to provide the Indiana State Board of Accounts and State, an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is Haverstick, and not of a parent, member, or subsidiary corporation of Haverstick,

except to the extent such an expanded audit may be determined by the Auditor or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Agreement and that Haverstick is not out of compliance with the financial aspects of this Agreement.

Section 13.2 **Conflict of Interest.** As used in this section: "Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party," means:

a. The individual executing this Agreement;
b. An individual who has an interest of three percent (3%) or more of Haverstick, if Haverstick is not an individual; or
c. Any member of the immediate family of an individual specified under subdivision a or b.

"**Commission**" means the State Ethics Commission.

IDOA may cancel this Agreement without recourse by Haverstick if any interested party is an employee of State.

IDOA will not exercise its right of cancellation under section B, above, if Haverstick gives the IDOA an opinion by the Commission indicating that the existence of this Agreement and the employment by State of the interested party does not violate any statute or rule relating to ethical conduct of State employees. IDOA may take action, including cancellation of this Agreement, consistent with an opinion of the Commission obtained under this Section 13.2.

Haverstick has an affirmative obligation under this Agreement to disclose to IDOA when an interested party is or becomes an employee of State. The obligation under this section extends only to those facts that Haverstick knows or reasonably should know.

Section 13.3 **Debarment and Suspension.** Haverstick certifies, by entering into this Agreement, that neither Haverstick nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of State. The term **"principal"** for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Haverstick.

Haverstick certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupments or penalties that might arise from non-compliance. Haverstick shall immediately notify State if any sub-contractor becomes debarred or suspended, and shall, at State's request, take all steps required by State to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

Section 13.4 **Drug-Free Workplace Certification.** Haverstick hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Haverstick shall give written notice to State within ten (10) calendar days after receiving actual notice that Haverstick or an

employee of Haverstick has been convicted of a criminal drug violation occurring in Haverstick's workplace.

False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Agreement is in excess of $25,000, Haverstick hereby further agrees that this Agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts and grants from the State in excess of $25,000. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds $25,000, shall be valid, unless and until this certification has been fully executed by Haverstick and made a part of the contract or agreement as part of the contract documents.

Haverstick certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Haverstick's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform it's employees of (1) the dangers of drug abuse in the workplace; (2) Haverstick's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Haverstick of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying in writing State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Section 13.5 **Licensing Standards.** Haverstick and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing Services to be provided by Haverstick pursuant to this Agreement. State shall not be required to pay Haverstick for any Services performed when Haverstick or its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against the applicable licensure, certification, or accreditation, Haverstick shall notify State immediately and State, at its option, may immediately terminate this Agreement.

Section 13.6 **Assistance.** State shall timely provide all necessary assistance, cooperation, facilities (including access to systems and personnel that operate such systems), data, personnel and other information or materials reasonably required by Haverstick in order to perform the Agreement. Haverstick shall not be liable for any delay in the performance of this Agreement to the extent related to State's failure to provide such assistance.

Section 13.7 **Press Release.** To the extent practicable, each party shall use reasonable efforts to notify the other party in advance of issuing a press release or otherwise responding to media inquiries regarding the subject of this Agreement. In no event shall a party be required to notify the other party prior to making a disclosure in relation to this Agreement required by law, including, without limitation the disclosures required by the United States Securities and Exchange Commission.

Section 13.8 **Order of Precedence.** In the event of any inconsistency or conflict between the provisions of this Agreement and any attachments and ancillary documents hereto, the inconsistency shall be resolved by giving precedence to the documents in the following order: (1) this Agreement; (2) Exhibit B, Key Personnel; (3) Exhibit C, Payment Schedule; (4) Exhibit A, Statement of Work; (5) the RFP; (6) Haverstick's second Best and Final Offer ("**BAFO**") response dated July 13, 2005; (7) Haverstick's first BAFO response dated June 28, 2005; (8) Haverstick's proposal dated April 18, 2005.

Section 13.9 **Minority and Women Business Enterprise Compliance.** Haverstick agrees to comply fully with the provisions of Haverstick's MBE/WBE participation plan.

Section 13.10 **Nondiscrimination.** Pursuant to IC § 22-9-1-10 and the Civil Rights Act of 1964, neither Haverstick nor its subcontractors shall discriminate against any employee or applicant for employment in the performance of this Agreement. Haverstick shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement. Haverstick's execution of this Agreement also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of Services based on race, color, national origin, age, sex, disability or status as a veteran.

Haverstick understands that State is a recipient of federal funds. Pursuant to that understanding, Haverstick and its subcontractors agree that if Haverstick employs fifty (50) or more employees and does at least $50,000 worth of business with State and is not exempt, Haverstick will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. Haverstick shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-

741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 13.11 **Penalties/Interest/Attorney's Fees.** State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, and IC § 34-13-1.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from State's failure to make prompt payment shall be based solely on the amount of funding originating from State and shall not be based on funding from federal or other sources.

Section 13.12 **Security and Privacy of Health Information.** Haverstick agrees to comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in all activities related to this Agreement, to maintain compliance throughout the life of this Agreement, to operate any systems used to fulfill the requirements of this Agreement in full compliance with HIPAA and to take no action which adversely affects the State's HIPAA compliance.

The parties acknowledge that the Department of Health and Human Services has issued the Final Rule, as amended from time to time, on the Standards for Privacy of Individually Identifiable Health Information, as required by HIPAA. To the extent required by the provisions of HIPAA and regulations promulgated thereunder, Haverstick assures that it will appropriately safeguard Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under this Agreement. Haverstick agrees to comply with applicable requirements of law relating to PHI with respect to any task or other activity it performs for State including, as required by the final regulations.

Section 13.13 **Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

Section 13.14 **Compliance with Laws.** Haverstick shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by State and Haverstick to determine whether the provisions of this Agreement require formal modification.

Haverstick and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in IC § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If Haverstick is not familiar with these ethical requirements, Haverstick should refer any questions to the State Ethics Commission, or visit the State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If Haverstick or its agents violate any applicable ethical standards, State may, in its sole discretion, terminate this Agreement immediately upon notice to Haverstick. In addition, Haverstick may be subject to penalties under IC § 4-2-6-12.

Haverstick certifies by entering into this Agreement, that neither it nor its principal(s) are presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to State. Haverstick agrees that any payments currently due to State may be withheld from payments due to Haverstick. Additionally, further work or payments may be withheld,

delayed, or denied and/or this Agreement suspended until Haverstick is current in its payments and have submitted proof of such payment to State.

Haverstick warrants that it has no pending or outstanding criminal, civil, or enforcement actions initiated by State, and agrees that it will immediately notify State of any such actions. During the term of such actions, Haverstick agrees that State may delay, withhold, or deny work under this Agreement and any supplements or amendments.

If a valid dispute exists as to Haverstick's liability or guilt in any action initiated by State or its agencies, and State decides to delay, withhold, or deny work to Haverstick, Haverstick may request that it be allowed to continue, or receive work, without delay. Haverstick must submit, in writing, a request for review to IDOA following the procedures for disputes outlined in Section 13.14 herein. A determination by IDOA shall be binding on the parties.

Any payments that State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC § 5-17-5.

Haverstick warrants that Haverstick and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with State.

Haverstick affirms that it is properly registered with and owes no outstanding reports to the Indiana Secretary of State.

Haverstick agrees that State may confirm, at any time, that no liabilities exist to State, and, if such liabilities are discovered, that State may bar Haverstick from contracting with State in the future, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until Haverstick is current in its payments on its liability to State and has submitted proof of such payment to State.

As required by IC § 5-22-3-7:

(1) Haverstick and any principals of Haverstick certify that (A) Haverstick, except for de minimis and nonsystematic violations, have not violated the terms of (i) IC § 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC § 24-5-12 [Telephone Solicitations] , or (iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and (B) Haverstick will not violate the terms of IC § 24-4.7 for the duration of the Agreement, even if IC § 24-4.7 is preempted by federal law.

(2) Haverstick and any principals of Haverstick certify that an affiliate or principal of Haverstick and any agent acting on behalf of Haverstick or on behalf of an affiliate or principal of Haverstick: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC § 24-4.7 for the duration of the Agreement, even if IC § 24-4.7 is preempted by federal law.

Section 13.15 **Non-Solicitation of Employees**. Except with the prior written consent of Haverstick or Tier, State agrees that during the term of this Agreement State will not offer to employ, promise to employ, initiate an offer to employ or employ any individuals who are current employees

of Haverstick or Tier or whose employment with Haverstick or Tier terminated less than six (6) months prior to State's action. State shall pay Haverstick or Tier, as the case may be, a fee equal to the annual salary of the individual hired as compensation for violating any of the provisions of this Section.

Section 13.16 **Binding Nature, Assignment and Successors**. Haverstick binds its successors to all the terms and conditions of this Agreement. Haverstick may not assign, voluntarily or by operation of law, any of its rights or obligations under this Agreement without the prior written consent of State or as provided in Section 1.1. State may at all times assign its rights and obligations under this Agreement, including to any other State agency. The signatory for the Agreement represents that he/she has been duly authorized to execute this Agreement on behalf of Haverstick and has obtained all necessary or applicable approvals to make this Agreement fully binding upon Haverstick when his/her signature is affixed, and certifies that this Agreement is not subject to further acceptance by Haverstick when accepted by State.

Section 13.17 **Amendment; No Electronic Signatures**. This Agreement may be amended or supplemented only by means of a physical writing manually signed by the parties. Any terms and conditions contained in any invoice or similar transactional document used by Haverstick shall not be deemed to amend or supplement this Agreement. State does not agree to the use of electronic signatures with respect to this Agreement or any amendment, modification or transactional document relating hereto. Haverstick shall not deviate from the terms and conditions of this Agreement without the prior written consent signed by a duly authorized representative of State.

Section 13.18 **Entire Agreement; Waiver; Interpretation**. This Agreement, and the documents and agreements listed in this Agreement to be incorporated into this Agreement, set forth the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede any and all prior proposals, agreements, understandings, and contemporaneous discussions, whether oral or written, between the parties with respect to the subject matter of this Agreement. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar) nor will such waiver constitute a continuing waiver unless otherwise expressly provided. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which, when taken together, will constitute one and the same instrument. Any provision in this Agreement that is prohibited, invalid or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 13.19 **Headings**. The headings used for the Articles and Sections of this Agreement are for information purposes and convenience only and shall not be deemed a part of this Agreement.

Section 13.20 **Governing Law; Jurisdiction and Venue**. Regardless of the place of execution, delivery, performance or any other aspect of this Agreement, this Agreement and all of the rights of the parties under this Agreement shall be governed by, construed under and enforced in accordance with the laws of the State of Indiana without regard to conflicts of law principles. Any suit must be brought in the State of Indiana, Marion County.

Section 13.21 **Notices**. Any notices or other communications required or permitted to be given or delivered hereunder shall, unless otherwise permitted, be in writing and shall be delivered personally, by courier service, by facsimile machine or by registered or certified mail, return receipt requested, postage pre-paid, to State and to Haverstick at their respective addresses appearing herein, or at such other address as either party may from time to time designate to the other in writing.

Notices or other communications provided to IDWD shall be addressed to the IDWD Project Manager, with a copy to IDWD's General Counsel. Any notice given shall be deemed to have been received on the date on which it is delivered personally, by courier service or by facsimile, or, if mailed, on the third business day next following the mailing thereof.

Section 13.22 **Remedies**. Unless otherwise specified in this Agreement, each party's rights and remedies are cumulative and not exclusive, are in addition to any other rights and remedies provided at law, in equity, or under this Agreement, and may be pursued separately or concurrently as such party determines. The parties agree that in the event of any breach or threatened breach of any provision of this Agreement or any attachments concerning Confidential Information or Intellectual Property Rights, money damages would be an inadequate remedy, and either party will be entitled to seek injunctive relief.

The undersigned attests, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of Haverstick, that he/she has not, nor has any other member, employee, representative, agent or officer of Haverstick, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

IN WITNESS WHEREOF, the undersigned Haverstick and State, through their duly authorized representatives, have caused this Agreement to be effective as of the Effective Date. The parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT

By: _____
Ronald L. Stiver, Commissioner

Date: _____

INDIANA OFFICE OF TECHNOLOGY

By: _____

Printed Name: _____

Title: _____

Date: _____

OFFICE OF MANAGEMENT AND BUDGET

By: _____
Charles E. Schalliol, Director

Date: _____

HAVERSTICK CONSULTING, INC.

By: _____
Eric H. Weber – Vice President and Chief Financial Officer

Date: 9/1/05

INDIANA DEPARTMENT OF ADMINISTRATION

By: _____ FOR

Printed Name: EARL Goode, Commissioner

Title: DEPUTY Commissioner SUSAN GARD

Date: 9-9-05

APPROVED AS TO FORM AND LEGALITY:
OFFICE OF ATTORNEY GENERAL

By: _____
Stephen Carter, Attorney General

Date: 9-15-05

Exhibit A STATEMENT OF WORK

(See Attached)

EXHIBIT B
KEY PERSONNEL

Tier One

Tim Peterson
Bob Hunchberger
Dmitri Ilkaev
John Hanna
Robin Doughty

Tier Two

Alan Samuels
Lee Carter
Steve Thompson

Tier Three

Gary Vincent
Nick Eaton
Dave Greene
Jim Obermaier
Terri Kershner
Joe Corey

EXHIBIT C

PAYMENT SHEDULE

Table 4.3-1a. 2005 Monthly Invoice Schedule

Projected Invoice Amounts - Based on Agreed Upon Deliverables			
Month	Monthly Invoice Amount	WBS Level 1	Deliverable
Sep-05	$1,750,000		Project Initiation Payment
Oct-05	$90,672	Project Office	Project Kick-off & Project Office Environ.
Nov-05	$0		
Dec-05	$327,893	Environment Setup	Physical Environment Setup
	$2,168,565		

Table 4.3-1b. 2006 Monthly Invoice Schedule

Projected Invoice Amounts - Based on Agreed Upon Deliverables			
Month	Monthly Invoice Amount	WBS Level 1	Deliverable
Jan-06	$503,622	Benefits	Inception 1
Feb-06	$452,484	Tax	Inception 1
Mar-06	$503,622	Benefits	Inception 2
Apr-06	$452,484	Tax	Inception 2
Apr-06	$259,822	Appeals	Inception 1
May-06	$503,622	Benefits	Elaboration 1
June-06	$452,484	Tax	Elaboration 1
July-06	$503,622	Benefits	Elaboration 2
July-06	$259,822	Appeals	Elaboration 1
Aug-06	$503,622	Benefits	Elaboration 3
Aug-06	$2,316,881	Environment Setup	Common Application Environment Setup
Sep-06	$503,622	Benefits	Elaboration 4
Sep-06	$452,484	Tax	Elaboration 2
Oct-06	$259,822	Appeals	Elaboration 2
Oct-06	$573,170	Conversion	Analyze Legacy Data
Nov-06	$503,622	Benefits	Construction 1
Dec-06	$452,484	Tax	Elaboration 3
	$9,457,291		

EXHIBIT C
PAYMENT SHEDULE

Table 4.3-1c. 2007 Monthly Invoice Schedule

Projected Invoice Amounts - Based on Agreed Upon Deliverables			
Month	Monthly Invoice Amount	WBS Level 1	Deliverable
Jan-07	$503,622	Benefits	Construction 2
Feb-07	$452,484	Tax	Construction 1
Feb-07	$259,822	Appeals	Construction 1
Feb-07	$182,724	Claimant Self Service	Inception 1
Mar-07	$503,622	Benefits	Construction 3
Mar-07	$227,669	Employer Self Service	Inception 1
Apr-07	$452,484	Tax	Construction 2
Apr-07	$182,724	Claimant Self Service	Elaboration 1
May-07	$503,622	Benefits	Construction 4
May-07	$259,822	Appeals	Construction 2
May-07	$227,669	Employer Self Service	Elaboration 1
May-07	$654,636	Conversion	Map Data
June-07	$452,484	Tax	Construction 3
June-07	$227,669	Employer Self Service	Elaboration 2
July-07	$503,622	Benefits	Construction 5
July-07	$182,724	Claimant Self Service	Construction 1
Aug-07	$452,484	Tax	Construction 4
Aug-07	$227,669	Employer Self Service	Construction 1
Sep-07	$503,622	Benefits	Construction 6
Sep-07	$259,822	Appeals	Construction 3
Oct-07	$452,484	Tax	Transition 1
Oct-07	$182,724	Claimant Self Service	Construction 2
Oct-07	$227,669	Employer Self Service	Construction 2
Oct-07	$548,257	Conversion	Prepare Data/ETL
Nov-07	$503,622	Benefits	Transition 1
Nov-07	$227,669	Employer Self Service	Construction 3
Dec-07	$452,484	Tax	Transition 2
Dec-07	$259,822	Appeals	Transition 1
	$10,075,727		

EXHIBIT C
PAYMENT SHEDULE

Table 4.3-1d. 2008 Monthly Invoice Schedule

Projected Invoice Amounts - Based on Agreed Upon Deliverables			
Month	Monthly Invoice Amount	WBS Level 1	Deliverable
Jan-08	$503,622	Benefits	Transition 2
Jan-08	$182,724	Claimant Self Service	Transition 1
Jan-08	$227,669	Employer Self Service	Transition 1
Jan-08	$270,037	Conversion	Run Data Conversion
Feb-08	$0		
Mar-08	$650,351	Deployment	Production Deployment
Apr-08	$60,669	Warranty Period	Warranty Support
May-08	$60,669	Warranty Period	Warranty Support
June-08	$60,669	Warranty Period	Warranty Support
July-08	$60,669	Warranty Period	Warranty Support
Aug-08	$60,669	Warranty Period	Warranty Support
Sep-08	$60,669	Warranty Period	Warranty Support
	$2,198,417		

PERFORMANCE AGREEMENT

This PERFORMANCE AGREEMENT (the "**Performance Agreement**") is entered into as of September 6, 2005 (the "**Effective Date**") by and between TIER TECHNOLOGIES, INC., a Delaware corporation with its principal office at 10780 Parkridge Boulevard, 4th Floor, Reston, Virginia 20191 ("**Tier**"), and the STATE OF INDIANA, acting through the INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT, with its principal office at 10 N. Senate Avenue, Indianapolis, Indiana 46204 ("**State**").

RECITALS

1. As a result of a competitive bid process held in connection with a project to modernize the State's unemployment insurance ("**UI**") system, State selected Haverstick Consulting, Inc., an Indiana corporation with its principal office at 11405 North Pennsylvania Street, Suite 210, Carmel, Indiana 46032 ("**Haverstick**") to implement State's UI Modernization Project.

2. State will engage Haverstick, and Haverstick will subcontract certain functions to Tier, in accordance with the terms and conditions set forth in that certain Unemployment Insurance Modernization Agreement by and between State and Haverstick effective as of the effective date hereof (the "**Agreement**") and the subcontract agreement entered into between Tier and Haverstick in connection with the UI Modernization Project (the "**Subcontract**").

3. Tier has received a complete copy of the Agreement and, in order to induce State to enter into the Agreement, acknowledges that it shall have certain responsibilities under the circumstances set forth in the Agreement.

4. All capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

NOW, THEREFORE, for and in consideration of these mutual promises and undertakings of the parties, and for other good and valuable consideration, receipt of which is hereby acknowledged, State and Tier agree as follows:

AGREEMENT

Article 1. SERVICES

Section 1.1 **Flow Down**. Tier agrees that except as otherwise expressly noted in the Agreement, the Subcontract shall contain terms and conditions which are substantially similar to the terms and conditions in the Agreement, including but not limited to, the provisions required by the State of Indiana under Articles 11 and 13 of the Agreement.

Section 1.2 **Performance Assignment**. In the event that State invokes the performance assignment provision at Section 1.4 of the Agreement, Tier shall consent to the Assignment and otherwise perform the Services in accordance with the terms and conditions of the Agreement provided that:

- The Assignment shall include only that portion of the Agreement as originally executed between Haverstick and State, and any change order, amendment or other modification of the Agreement that Tier agreed upon in writing (the "**Prime Contract**");
- The Assignment shall require that Tier perform only Services and/or provide the Deliverables that were Haverstick's responsibility under the Prime Contract and which were incomplete as of the effective date of the Assignment;
- The Assignment shall be effective only upon: (i) State issuing to Haverstick and Tier a prior written notice of its intent to invoke the assignment provision, which notice shall identify specifically and in detail the reason under which State is invoking the Assignment, and (ii) the lapse of at least forty-five (45) business days to cure such circumstance after issuing the written notice of intent. In the event the circumstance referenced in the prior sentence is not timely cured, then there shall be a forty-five (45) business days transition period pursuant to which Haverstick, Tier and State shall cooperate in transitioning the obligations of Haverstick under the Agreement to Tier (the "**Transition Period**");
- The schedule for the parties to perform the Prime Contract shall be extended on a day-for-day basis for the length of the forty-five day cure period and the Transition Period without liability to either party;
- Tier shall not be liable under the Assignment for claims, demands, damages, penalties or other liability to the extent arising from or out of Haverstick's performance of the Prime Contract prior to the effective date of the Assignment, including, but not limited to claims for liquidated damages, breach of contract, breach of confidentiality, breach of warranty or requests for indemnification. State shall look exclusively to Haverstick, and not Tier, on all such matters not assigned to Tier; and
- Haverstick shall not be liable under the Assignment for claims, demands, damages, penalties or other liability to the extent arising from or out of Tier's performance of the Prime Contract after the effective date of the Assignment, including, but not limited to claims for liquidated damages, breach of contract, breach of confidentiality, breach of warranty or requests for indemnification. State shall look exclusively to Tier, and not Haverstick, on all such matters assigned to Tier.

Section 1.3 **Use of Key Personnel.** Tier shall not be required to use Haverstick's Key Personnel in performing its obligations under the Assignment and shall not incur any liquidated damages for failure to use and/or replace such personnel.

Article 2. TERMINATION

Section 2.1 **Termination Rights**. This Performance Agreement shall terminate on the earlier of (a) Haverstick's successful completion of all Services and State's

Acceptance of all such Deliverables or (b) at the request of State in accordance with the termination provisions contained in the Prime Contract, as assigned to Tier.

Article 3. MISCELLANEOUS

Section 3.1 **Performance Bond.** Tier shall provide a performance bond in the amount of $2,390,000 in connection with the performance of the Subcontract. This bond shall be annually renewable and Tier shall renew this bond until the termination or expiration of the Subcontract, without lapse. The term of the Subcontract shall be coterminous with the term of the Prime Contract and Tier shall be prohibited from terminating the Subcontract except for a material breach of the Subcontract by Haverstick not cured after thirty (30) days prior written notice. The bond shall be written on the standard bond form of Tier's surety company. The bond shall be obtained within ten (10) calendar days of the State duly executing the Prime Contract and shall name the Indiana Department of Administration as an obligee. Tier shall submit the bond to:

Procurement Division
Indiana Department of Administration
402 West Washington Street, W468
Indianapolis, IN 46204

Section 3.2 **Binding Nature, Assignment and Successors**. Tier binds its successors to all the terms and conditions of this Performance Agreement. Tier may not assign, voluntarily or by operation of law, any of its rights or obligations under this Performance Agreement without the prior written consent of State. State may at all times assign its rights or obligations under this Performance Agreement, including to any other State agency. The signatory for the Performance Agreement represents that he/she has been duly authorized to execute this Performance Agreement on behalf of Tier and has obtained all necessary or applicable approvals to make this Performance Agreement fully binding upon Tier when his/her signature is affixed, and certifies that this Performance Agreement is not subject to further acceptance by Tier when accepted by State.

Section 3.3 **Amendment; No Electronic Signatures**. This Performance Agreement may be amended or supplemented only by means of a physical writing manually signed by the parties. Any terms and conditions contained in any invoice or similar transactional document used by Tier shall not be deemed to amend or supplement this Performance Agreement. State does not agree to the use of electronic signatures with respect to this Performance Agreement or any amendment, modification or transactional document relating hereto. Tier shall not deviate from the terms and conditions of this Performance Agreement without the prior written consent signed by a duly authorized representative of State.

Section 3.4 **Entire Agreement; Waiver; Interpretation**. This Performance Agreement, and the documents and agreements listed in this Performance Agreement to be incorporated into this Performance Agreement, set forth the entire agreement of the parties with respect to the subject matter of this Performance Agreement, and supersede any and all prior proposals, agreements, understandings, and contemporaneous discussions, whether oral or written, between the parties with respect to the subject matter of this Performance Agreement. No waiver of any of the provisions of this Performance

Agreement will constitute a waiver of any other provision (whether or not similar) nor will such waiver constitute a continuing waiver unless otherwise expressly provided. This Performance Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which, when taken together, will constitute one and the same instrument. Any provision in this Performance Agreement that is prohibited, invalid or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 3.5 **Headings**. The headings used for the Articles and Sections of this Performance Agreement are for information purposes and convenience only and shall not be deemed a part of this Performance Agreement.

Section 3.6 **Governing Law; Jurisdiction and Venue**. Regardless of the place of execution, delivery, performance or any other aspect of this Performance Agreement, this Performance Agreement and all of the rights of the parties under this Performance Agreement shall be governed by, construed under and enforced in accordance with the laws of the State of Indiana without regard to conflicts of law principles. Any suit must be brought in the State of Indiana, Marion County.

Section 3.7 **Notices**. Any notices or other communications required or permitted to be given or delivered hereunder shall, unless otherwise permitted, be in writing and shall be delivered personally, by courier service, by facsimile machine or by registered or certified mail, return receipt requested, postage pre-paid, to State and to Tier at their respective addresses appearing herein, or at such other address as either party may from time to time designate to the other in writing. Notices or other communications provided to State shall be addressed to the State Project Manager, with a copy to Indiana Department of Workforce Development's General Counsel. Any notice given shall be deemed to have been received on the date on which it is delivered personally, by courier service or by facsimile, or, if mailed, on the third business day next following the mailing thereof.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

The undersigned attests, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of Tier, that he/she has not, nor has any other member, employee, representative, agent or officer of Tier, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Performance Agreement other than that which appears upon the face of this Performance Agreement.

IN WITNESS WHEREOF, the undersigned Tier and State, through their duly authorized representatives, have caused this Performance Agreement to be effective as of the Effective Date. The parties, having read and understood the foregoing terms of this Performance Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT

By: _____
Ronald L. Stiver, Commissioner

TIER TECHNOLOGIES, INC.

By: _____

Printed Name: _____

Title: _____

Date: _____

INDIANA OFFICE OF TECHNOLOGY

By: _____

Printed Name: Chris Cotterill

Title: C.I.O.

Date: 9/9/05

INDIANA DEPARTMENT OF ADMINISTRATION

By: _____ FOR

Printed Name: EARL GOODE, COMMISSIONER

Title: DEPUTY COMM. SUSAN GARD

Date: 9-9-05

OFFICE OF MANAGEMENT AND BUDGET

By: _____
Charles E. Schalliol, Director

Date: _____

APPROVED AS TO FORM AND LEGALITY
OFFICE OF ATTORNEY GENERAL

By: _____
Stephen Carter, Attorney General

Date: 9-15-05