Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

December 23, 2008

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006** **Email: bob@lifesaversinc.com**	VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-0301 **Sue Cieciwa**
Contract Compliance Inspector: Sue Cieciwa (517) 373-0301 **Automated External Defibrillators (AED's) - Statewide**	
CONTRACT PERIOD: From: **February 15, 2005** To: **January 31, 2010**	
TERMS **1% 10- Net 30 Days**	SHIPMENT **14 Days ARO**
F.O.B. **Destination**	SHIPPED FROM **West Caldwell, NJ**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Effective immediately this Contract is hereby EXTENDED to January 31, 2010.

All other specifications, prices, terms, and conditions remain the same.

AUTHORITY/REASON:

Per DMB, Purchasing Operations request by letter dated November 18, 2008 and vendor agreement by letter dated November 25, 2008.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $186,750.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

June 20, 2008

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006** **Email: bob@lifesaversinc.com**	VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-0301 **Sue Cieciwa**
Contract Compliance Inspector: Sue Cieciwa (517) 373-0301	CS138# N/A
Automated External Defibrillators (AED's) - Statewide	
CONTRACT PERIOD: From: **February 15, 2005**	To: **February 1, 2009**
TERMS **1% 10- Net 30 Days**	SHIPMENT **14 Days ARO**
F.O.B. **Destination**	SHIPPED FROM **West Caldwell, NJ**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):
Please note the following changes to Article 1.401 Pricing, State Administrative Fee:

1. **State Administrative Fee address for checks has been changed to the following:**

   Department of Management and Budget
   Financial Services – Cashier Unit
   Lewis Cass Building
   320 South Walnut Street
   P.O. Box 30681
   Lansing, MI 48909

   Make all checks payable to: State of Michigan

   In addition, the buyer has been CHANGED to Sue Cieciwa.

All other specifications, prices, terms, and conditions remain the same.

AUTHORITY/REASON:

Per DMB Purchasing Operations

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $186,750.00

\ Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

October 30, 2007

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006**	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 **William C. Walsh, CPPB**
Contract Compliance Inspector: William C. Walsh (517) 373-6535	CS138# N/A
Automated External Defibrillators (AED's) - Statewide	
CONTRACT PERIOD: From: **February 15, 2005**	To: **February 1, 2009**
TERMS **1% 10- Net 30 Days**	SHIPMENT **14 Days ARO**
F.O.B. **Destination**	SHIPPED FROM **West Caldwell, NJ**
MINIMUM DELIVERY REQUIREMENTS	
N/A	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

Effective October 30, 2007, this Contract is hereby EXTENDED to February 1, 2009, per Article 2.004 of the Contract.

All other terms, conditions, and pricing of this Contract shall remain the same.

AUTHORITY/REASON:

Per request of DMB/Purchasing Operations and Contractor agreement (fax dated 10/16/07).

INCREASE: $0.00

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $186,750.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

March 16, 2005

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006**	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 **William C. Walsh, CPPB**
Contract Compliance Inspector: William C. Walsh (517) 373-6535	CS138# N/A
Automated External Defibrillators (AED's) - Statewide	
CONTRACT PERIOD: From: **February 15, 2005**	To: **February 1, 2008**
TERMS **1% 10- Net 30 Days**	SHIPMENT **14 Days ARO**
F.O.B. **Destination**	SHIPPED FROM **West Caldwell, NJ**
MINIMUM DELIVERY REQUIREMENTS	
N/A	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

Effective March 16, 2005, this Contract is hereby CHANGED to add the following:

This Contract is EXTENDED to Local Units of Government and other Non-Profit Organizations through MiDEAL.

Discount of 1% is available if paid within 10 days.

All other terms, conditions, and pricing of this Contract shall remain the same.

AUTHORITY/REASON:

Per Acquisition Services.

INCREASE: $0.00

Total Estimated Contract Value Remains: $186,750.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

March 3, 2005

NOTICE
OF
CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006**	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 **William C. Walsh, CPPB**
Contract Compliance Inspector: William C. Walsh (517) 373-6535 **Automated External Defibrillators (AED's) - Statewide**	
CONTRACT PERIOD: From: **February 15, 2005**	To: **February 1, 2008**
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

The terms and conditions of this Contract are attached.

Estimated Contract Value: $186,750.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B5200216
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Bob Stickel **(973) 228-6503**
Lifesavers, Inc. **759 Bloomfield Avenue #102** **West Caldwell, NJ 07006**	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 **William C. Walsh, CPPB**

Contract Compliance Inspector: William C. Walsh (517) 373-6535

Automated External Defibrillators (AED's) - Statewide

CONTRACT PERIOD:	From: **February 15, 2005**	To: **February 1, 2008**
TERMS **N/A**	SHIPMENT **N/A**	
F.O.B. **N/A**	SHIPPED FROM **N/A**	
MINIMUM DELIVERY REQUIREMENTS **N/A**		

MISCELLANEOUS INFORMATION:
The terms and conditions of this Contract are attached.

Estimated Contract Value: $186,750.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No.071I4001372. Orders for delivery of equipment will be issued directly by the Department of Management and Budget through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR:	**FOR THE STATE:**
Lifesavers, Inc. Firm Name	Signature
Authorized Agent Signature	**William C. Walsh, CPPB** Name
Authorized Agent (Print or Type)	**Commodities Division, Acquisition Services** Title
Date	Date

STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services

Contract No. 071B5200216
Automated External Defibrillator (AED)

Buyer Name: William C. Walsh, CPPB
Telephone Number: (517) 373-6535
E-Mail Address: walshw@michigan.gov

Automated External Defibrillator (AED)

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Appendix A – Pricing Page – Discount 1 for purchases that include at least 1 AED with order.

Appendix B – Pricing Page – Discount 2 for purchases that does not include an AED.

Article1 – Statement of Work (SOW)

1.0 Introduction

1.001 DEFINING DOCUMENT

1.002 PROJECT TITLE AND DESCRIPTION

This Contract is a Statewide Contract for Automated External Defibrillators (AED's), which shall be available to state agencies, local units of government and other non-profit organizations.

1.003 PROJECT CONTROL

Project Control

a. The Contractor will carry out this project under the direction and control of the Department of Management and Budget, Acquisition Services.

b. Although there will be continuous liaison with the Contractor team, the Contract Administrator will meet as required, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.

c. The Contractor will submit brief written *semi-annual reports as to purchasing activity*.

d. The Contractor shall provide the names and title of personnel assigned to this project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status or other unforeseen circumstances may only be made with prior approval of the state.

1.004 COMMENCEMENT OF WORK

Contractor shall show acceptance of this agreement by signing both copies of this Contract and returning it to the Contract administrator. Contractor shall not proceed with performance of the work to be done under this agreement, including the purchase of necessary materials, until both parties have signed this agreement to show acceptance of its terms.

1.1 Product Quality

1.101 SPECIFICATIONS

The Defibtech Lifeline AED has been FDA approved since June 2002 and available on the market through LifeSavers, Inc. since January 2003

The VF/VT detection rates are 180 bpm for wide complex VF/VT, with many other factors being considered by the device. A more in-depth analysis of this topic is available for review, should it be requested. The VF/VT detection rates are not programmable

It cannot be reprogrammed.

It does detect noise and artifact

The AED does have a non-committed shock feature. In addition, if VT or VF is initially detected and the victim converts on his own, the AED will "dump the shock"

The AED performs a continuous monitoring during CPR

Prompts are accompanied by text messages that are permanently displayed next to LED lights on the AED. When the LED light is flashing next to the message, the rescuer knows to follow this command. For example, at a time when the rescuer should not touch the patient, a voice prompt will tell the rescuer "DO

NOT TOUCH PATIENT" and the light will flash next to the message "do not touch patient" during the entire time that the rescuer should not touch the patient

A Trainer (simulator) is available that has 9 different scenarios to assist in the training of employees. The first 8 scenarios are the scenarios used in the American Heart Association Heart-Saver CPR/AED course. The last scenario is a demonstration scenario

A ten-minute training and orientation video is available. The video is suitable to be used in formal CPR/AED training programs

The AED performs a self-test every 24 hours, with more advanced self-tests done on a weekly, monthly, and quarterly basis

The self-test tests for electrodes, battery, and circuitry

EASE OF USE/SELF TESTING FEATURES

To operate the AED a rescuer will need to perform the following:
Turn on the AED (push ON button)
Follow prompts and attach electrodes to the patient's bare chest
If instructed, press "SHOCK" button.

Two buttons are required to operate the AED. One to turn the AED on and the other to "SHOCK" the victim.

For ease of use the diagram on the pads show that pads being placed on one way, however, pads can be successfully used if interchanged

The pads are pre-connected

The voice prompts are timed. The rescuer is advised for how long to continue treatment or monitoring the victim. For example, the AED will prompt the rescuer during CPR to "Continue for "x" seconds".

A battery self test is performed every time the battery is inserted into the AED and every 24 hours during the self-test. Should there be a problem with the battery the owner will be alerted by a red light that blinks every 5 seconds and an auditable tone that "chirps" periodically. When the owner notice the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is, and if possible, how to resolve the problem. For example the message that would alert the owner of a battery problem might be "battery pack low" or "replace battery pack."

The User's Manual does not recommend a back-up battery be available

The circuitry is checked every 24 hours during the self-test. Should there be a problem with the circuitry; the owner would be alerted by a red light that blinks every 5 seconds and an auditable tone that "chirps" periodically. When the owner notice the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is, and if possible, how to resolve the problem

The electrodes are checked for presence and integrity of the connection, meaning the pads are connected and properly plugged in, every 24 hours. Should a problem be detected; the owner would be alerted by a red light that blinks every 5 seconds and an auditable tone that "chirps" periodically. When the owner notices the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive an verbal message as to what the problem is, and if possible, how to resolve the problem. The self-test does not check for the condition of the water-based gel

Yes, the AED does perform a quarterly full energy test every three months. In addition, the owner can perform an "extended self-test" at any time which includes a full energy self-test

ELECTRODES

The shelf life of the electrodes is two years

The AED checks for the function and integrity of the connection, meaning it tests for the presence of pads and that the presence are plugged in properly and that there is no “short” in the wires, every 24 hours

Should the electrodes be missing, or not connected properly, the owner would be alerted by a red light that blinks every 5 seconds and an auditable tone that “chirps” periodically. When the owner notices the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is, and if possible, how to resolve the problem. For example the message that would alert the owner of a pads problem might be “pads missing.”

Pediatric pads are available for the Defibtech Lifeline AED. Cost for the pediatric pads can be found in our price proposal.

By using an FDA approved adapter the Defibtech pads may be connected to a defibrillator that uses Medtronic Quick-Combo or Zoll M Series connections.

The electrodes have a diagram on them indicating where to place the electrodes which reduces the time for a rescuer to place them. The electrodes are NON-POLARIZED and can be placed in either orientation.

The AED Electrodes are pre-connected

CIRCUITRY

The AED checks the integrity of the internal circuitry daily.

Should there be a problem with the AED’s internal circuitry the owner would be alerted by a red light that blinks every 5 seconds and an auditable tone that “chirps” periodically. When the owner notice the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is, and if possible, how to resolve the problem. For example the message that would alert the owner of problem with the AED’s internal circuitry might be “Service required.”

RESCUE DATA RETREIVAL

To download the internal data log, the owner would need to perform the following procedure:

i. Insert a blank Data Card into the AED
ii. Turn the AED on
iii. Once the AED is on, turn it off into data download mode by pushing and holding the ON/OFF button for at least five seconds
iv. Allow the unit to write the contents of the log onto the Data Card and turn off automatically.

In order to review the data a PC with a Data Card Slot is required. If the computer does not have a Data Card Slot, a Card Reader with a USB connector can be purchased for a nominal fee. Please note that the “Defib View” Software, required to open the file on a PC, is available for free over the internet via the Defibtech website. The website is www.defibtech.com and the software can be found under the DOWNLOADS section. There is no restriction of how many copies of this software is downloaded by a customer.

ENERGY DELIVERY

The AED delivers a 150-joule Biphasic Exponential waveform to patients with impedances ranging from 25 to 180 ohms. The waveform shape is adjusted based on the patient’s impedance.

The AED adjusts the waveform parameters based on individually measured patient impedance.

The AED delivers 150 Joules but adjusts the waveform based on measured patient impedance

The AED is field programmable and upgradeable. It is possible for the owner to download any possible upgrades from the Defibtech Website (www.defibtech.com), transfer the upgrade to a data card, and upgrade the AED on their own.

The AED uses a 150-Joule waveform. The energy does not vary.

1.102 RESEARCH AND DEVELOPMENT

Defibtech, the manufacturer of the AED, continues to refine existing products, and aggressively continues to research further possibilities for ongoing demands.

1.103 QUALITY ASSURANCE PROGRAM

Currently, Defibtech, the manufacturer of the AED, is ISO 13485 Certified and follows FDA GMP.

1.104 WARRANTY FOR PRODUCTS OR SERVICES

AED Warranty/Service/Maintenance/Recalls

The Defibtech Lifeline AED is covered by a five (5) year warranty, directly from Defibtech, LLC. For specific details, please refer to the Buyer's Standard Limited Warranty.

The Defibtech, LLC Warranty states "shall be substantially free from defects in material and workmanship for five (5) years from the date of shipment." For a detailed explanation, please refer to the Buyer's Standard Limited Warranty.

There are no additional service costs over the first five (5) years. In addition, since the AED does not require ongoing maintenance by a technician, there is no expected cost in the future for maintenance from the manufacturer or the vendor. The only associated costs going into the future is the periodic replacement of defibrillation pads and batteries as they reach expiration. Pads expire after two years. For costs of these items, please refer to our pricing proposal.

There is no requirement or recommendation for calibration.

There are no recalls of the Defibtech Lifeline AED or any related support equipment.

The AED does not require service. However, should there be a problem with the AED and it should need to be repaired; all work will be done at the Defibtech, LLC facility in Gilford, CT.

The standard turn around time for repairs is typically twenty-four (24) hours, however should the AED need repair that is covered under warranty, Defibtech will provide a replacement AED, at no additional cost.

BATTERY

The battery is a 5-year battery. The battery has a shelf life of 5 years. In addition, the battery has an operational life of 5 years, and is rated for 125 shocks. Since the blinking light and a substantial portion of the self-tests work off of the 9V battery, the AED battery life is used for the operation of the AED. There is an optional 7-year battery available which has a 7-year shelf life and is rated for 300 shocks.

The battery is warranted for a period of three (3) year.

The User's Manual does not require or recommend an additional battery.

A battery self test is performed every time the battery is inserted into the AED and every 24 hours during the self-test.

Should there be a problem with the battery the owner will be alerted by a red light that blinks every 5 seconds and an auditable tone that "chirps" periodically. When the owner notice the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is. For example the message that would alert the owner of a battery problem might be "battery pack low" or "replace battery pack."

When the rescuer first receives the voice prompt “Battery Pak Low” the AED will still be able to deliver at least a minimum of six defibrillation shocks. The battery pack should be replaced soon. When the rescuer receives the voice prompt “Replace Battery Pack” the battery pack is almost discharged and the AED may not be able to deliver defibrillation shocks.

There is no visible battery capacity fuel gauge. Should there be a problem with the battery the owner will be alerted by a red light that blinks every 5 seconds and an auditable tone that “chirps” periodically. When the owner notice the red blinking light, or hears the auditable tone, the owner simply needs to turn the AED on and off to receive a verbal message as to what the problem is. For example the message that would alert the owner of a battery problem might be “battery pack low” or “replace battery pack.”

To remove the battery pack, push the battery eject button on the side of the AED. After the battery pack is partially ejected, pull the battery pack out. To insert the new battery pack into the AED, orient the battery pack so that the label faces up. Insert the battery pack into the opening in the side of the AED. Slide the pack all the way in until the latch clicks.
The procedure for replacing a battery in the AED can be accomplished very quickly and efficiently during a rescue.

1.2 Service Capabilities

1.201 CUSTOMER SERVICE/ORDERING

LifeSavers, Inc. will accept orders from all buyers under the State of Michigan contract electronically, written order, by phone, or facsimile. LifeSavers, Inc will assign three (3) points of contact for the State of Michigan. These three (3) people are identified below with their contact information:
Please feel free to contact LifeSavers, Inc. at any time Toll-Free (866) 641-1200

Robert Stickel- President of LifeSavers, Inc.
Office: (973) 228-6503 Mobile: (973) 445-2894 Fax: (973) 893-8180
Email: bob@lifesaversinc.com

Gerard Muench- Vice President of Sales
Office: (908) 979-1915 Mobile: (908) 296-2263 Fax: (908) 979-1915
Email: rod@lifesaversinc.com

Selena Brogan- Customer Service/Office Manager
Office: (973) 228-6503 Fax: (973) 893-8180
Email: selena@lifesaversinc.com

1.202 TRAINING

LifeSavers, Inc. will provide training as specified in the Invitation to Bid.

1.203 REPORTING

LifeSavers, Inc. will provide any reports the State of Michigan requests directly.

1.204 SPECIAL PROGRAMS

LifeSavers, Inc. offers our *Advantage Program* which allows our customers to purchase accessories at a reduced rate of 15% off list price.
LifeSavers, Inc. does not accept returns of medical equipment. Accessories such as cabinets or soft cases can be returned for a re-stocking charge of 25%. Orders can be cancelled prior to shipping at no charge.

1.205 SECURITY

LifeSavers, Inc. will abide by any security requirements that the State of Michigan requires.

1.3 Delivery Capabilities

1.301 TIME FRAMES

Delivery will be made to the State of Michigan within fourteen (14) days after the receipt of order. A quick ship program is available for orders of less than twenty (20) AEDs. Typically, orders under twenty (20) AEDs are available to ship within twenty-four (24) hours.

1.302 MINIMUM ORDER

Minimum order is one (1) AED or supplies. There are no price break amounts after minimum order.

1.303 PACKAGING

LifeSavers, Inc will abide by packaging specifications required by the State of Michigan

1.304 RESERVED

1.305 DELIVERY TERM

LifeSavers, Inc.'s delivery terms are FOB Delivered. LifeSavers, Inc. utilizes UPS Ground shipping.

1.306 RESERVED FOR ACCEPTANCE OF DELIVERABLES/PARE EXPLANATION

1.4 Project Price

1.401 PRICING

Pricing for this Contract is listed in Appendices A and B.

STATE ADMINISTRATIVE FEE

The Contractor must collect an Administrative Fee on the sales transacted under this Contract. The Contractor must remit the Administrative Fee in U.S. dollars within thirty (30) days after the end of the quarterly sales reporting period. The Administrative Fee equals 1% of the total quarterly sales reported. Contractor must include the Administrative Fee in their prices.

The Contractor must remit any monies due as a result of the close-out report at the time the close-out report is submitted to Acquisition Services.

The Contractor must pay the Administrative Fee collected by check. To ensure the payment is credited properly, the Contractor must identify the check as an "Administrative Fee" and include the following information with the payment:

Applicable State BPO Number, report amount(s), and reporting period covered.

Contractor must forward the check to the following address:

Acquisition Services
530 West Allegan St.
Lansing, MI 48933

Please make check payable to: Treasurer, State of Michigan

1.402 QUICK PAYMENT TERMS

Payment terms for LifeSavers, Inc. are Net/30.
Quick Payment terms are 1% Discount if invoice is paid within 10 days.

1.403 PRICE TERM

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Acquisition Services reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Acquisition Services also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST TEN DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.

1.5 Quantity term

LifeSavers, Inc. will supply all quantities the State of Michigan requires under this Contract.

1.6 RESERVED

Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

This Contract is for Automated External Defibrillators (AED's) for the State of Michigan. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

All State agencies, units of local State and members of MiDEAL may issue orders for items listed on this Contract at the same prices, terms and conditions.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

This Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services.

Acquisition Services is the sole point of contact in the State with regard to all procurement and Contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the Contract from any individual or office other than Acquisition Services and the listed Contract administrator

All communications covering this procurement must be addressed to Contract administrator indicated below:

Department of Management and Budget
Acquisition Services
Attn: William C. Walsh, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) *373-6535*
walshw@michigan.gov

2.003 NOTICE

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

2.004 CONTRACT TERM

The term of this Contract will be for three (3) years and will commence with the issuance of a Contract. This will be approximately February 1, 2005 through December 31, 2008.

Option. The State reserves the right to exercise two (2) - one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Extension. At the sole option of the State, the Contract may also be extended. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Written notice will be provided to the Contractor within 30 days, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the Contract expires. The preliminary notice does not commit the State to an extension. If the State exercises this option, the extended Contract shall be considered to include this option clause.

2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, Contractor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this Contract; some statutes are reflected in the clauses of this Contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)
MI OSHA MCL §§ 408.1001 – 408.1094
Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.
MI Consumer Protection Act MCL §§ 445.901 – 445.922
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.
Department of Civil Service Rules and regulations
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.
MCL §§ 423.321, et seq.
MCL § 18.1264 (law regarding debarment)
Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.
Contract Work Hours and Safety Standards Act (CWHSAA) 40 USCS § 327, et seq.
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795
Rules and regulations of the Environmental Protection Agency
Internal Revenue Code
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)
The Civil Rights Act of 1964, USCS Chapter 42
Title VII, 42 USCS §§ 2000e et seq.
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106
Sherman Act, 15 U.S.C.S. § 1 et seq.
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.
Clayton Act, 15 U.S.C.S. § 14 et seq.

2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its sub-Contractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and sub-Contractors during the performance of this Contract.

2.008 HEADINGS

Captions and headings used in this Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

2.009 MERGER

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

2.010 SEVERABILITY

Each provision of this Contract shall be deemed to be severable from all other provisions of this Contract and, if one or more of the provisions of this Contract shall be declared invalid, the remaining provisions of this Contract shall remain in full force and effect.

2.011 SURVIVORSHIP

Any provisions of this Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason.

2.012 NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of this Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of this Contract.

2.013 PURCHASE ORDERS

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

2.1 Vendor/Contractor Obligations

2.101 ACCOUNTING RECORDS

The Contractor and all sub-Contractors shall maintain all pertinent financial and accounting records and evidence pertaining to this Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on this Contract or extension thereof.

2.102 NOTIFICATION OF OWNERSHIP

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.

2. The Contractor shall also notify the Acquisition Services within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;

2. Provide Acquisition Services or designated representative ready access to the records upon request;

3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and

4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

2.103 RESERVED

2.104 RESERVED

2.105 RESERVED

2.106 RESERVED

2.107 RESERVED

2.108 COMPETITION IN SUB-CONTRACTING

The Contractor shall select sub-Contractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Contract.

2.109 CALL CENTER DISCLOSURE

The Contractor and/or all sub-Contractors involved in the performance of this Contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

Contractor is on notice that time is of the essence in the performance of this Contract. Late performance will be considered a material breach of this Contract, giving the State a right to invoke all remedies available to it under this Contract.

2.202 CONTRACT PAYMENT SCHEDULE

All invoices should reflect actual work done. Each state agency will issue a purchase order against the BPO and indicate the ship to/bill to address. Each state agency, local unit of State and MiDEAL member is responsible for their own purchases.

2.203 RESERVED

2.204 RESERVED

2.205 ELECTRONIC PAYMENT AVAILABILITY

Electronic transfer of funds is available to State Contractors. Contractor is encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at www.cpexpress.state.mi.us.

2.206 RESERVED

2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of this Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of this Contract.

2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from this Contract. If any part of the work is to be sub-Contracted, the Contract must include a list of sub-Contractors, including firm name and address, contact person and a complete description of work to be sub-Contracted. The State reserves the right to approve sub-Contractors and to require the Contractor to replace sub-Contractors found to be unacceptable. The Contractor is totally responsible for adherence by the sub-Contractor to all provisions of this Contract. Any change in sub-Contractors must be approved by the State, in writing, prior to such change.

2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this Contract, or delegate any of its duties or obligations under this Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under this Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under this Contract to a sub-Contractor other than a sub-Contractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

Contractor must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that the Contractor provided in the bid.

2.304 TAXES

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

2.305 INDEMNIFICATION

General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its sub-Contractors under this Contract.

2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in this Contract;

3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;

4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its sub-Contractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;

5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its sub-Contractors in its or their capacity as an employer of a person.

Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its sub-Contractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor’s breach of the No Surreptitious Code Warranty.

Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its sub-Contractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits

payable by or for the Contractor or any of its sub-Contractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of this Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan Stateal or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan Stateal or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor' s information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

2.306 LIMITATION OF LIABILITY

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of this Contract.

2.307 CONTRACT DISTRIBUTION

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of State unless other arrangements are authorized by Acquisition Services.

2.308 FORM, FUNCTION, AND UTILITY

If this Contract is for use of more than one State agency and if the good or service provided under this Contract do not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

2.310 RESERVED

2.311 RESERVED

2.312 RESERVED

2.313 RESERVED

2.314 WEBSITE INCORPORATION

The State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Acquisition Services of the properly executed Contract Agreement, the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of this Contract. However, overseeing this Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract. That authority is retained by Acquisition Services**. The Contract Compliance Inspector for this project is:

Department of Management and Budget
Acquisition Services
William C. Walsh, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) *373-6535*
walshw@michigan.gov

2.402 PERFORMANCE REVIEWS

Acquisition Services may review with the Contractor their performance under this Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of this Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, this Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of this Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with this Contract requirements.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against this Contract, shall be considered default by the Contractor of the terms and conditions of this Contract and may result in cancellation of this Contract by the State. The brand and product number offered for all items shall remain consistent for the term of this Contract, unless Acquisition Services has approved a change.

2.502 QUALITY ASSURANCE

The State reserves the right to periodically test products, which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

1. All costs of testing and laboratory analysis.
2. Disposal and/or replacement of all products which fail to meet specifications.
3. All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

2.503 INSPECTION

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of this Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

2.504 GENERAL WARRANTIES (goods)

Warranty of Merchantability – Goods provided by the Contractor under this Contract shall be merchantable. All goods provided under this Contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description

given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.

Warranty of fitness for a particular purpose – When Contractor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the Contractor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

Warranty of title – Contractor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of Contracting, has no knowledge. Goods provided by Contractor, under this agreement, shall be delivered free of any rightful claim of any third person by of infringement or the like.

2.505 RESERVED

2.506 RESERVED

2.507 RESERVED

2.508 EQUIPMENT WARRANTY

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Within three (3) business days of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with this Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

2.509 RESERVED

2.6 Breach of Contract

2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this Contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this Contract.

2.602 NOTICE AND THE RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the fail-ure of the other party to perform its material responsibilities under this Contract (either itself or through another Contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its sub-Contractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under this Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of this Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) this Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its sub-Contractors will not relieve the Contractor of its obligations under this Contract except to the extent that a sub-Contractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the sub-Contractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.7 Remedies

2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under this Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling this Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in this Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of Contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a cancellation for convenience.

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in this Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of this Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel this Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.

3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.

4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or sub-Contract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.

5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.702 RIGHTS UPON CANCELLATION

A. Rights and Obligations Upon Termination

(1) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and

property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in equipment and software that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables and other Developed Materials intended to be transferred to the State at the termination of this Contract and which are resulting from this Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those sub-Contracts and outstanding orders for material and supplies resulting from the terminated Contract.

(2) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for partially completed Deliverables, on a percentage of completion basis. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(3.) If any such termination by the State is for cause, the State shall have the right to set-off against any amounts due Contractor the amount of any damages for which Contractor is liable to the State under this Contract or pursuant to law or equity.

(4.) Upon a good faith termination, the State shall have the right to assume, at its option, any and all sub-Contracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Services under this Contract by replacement Contract or otherwise as the State may in its sole judgment deem expedient.

B. Termination Assistance

If the Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) calendar days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Labor Rates indicated within Contractors pricing section. If this Contract is terminated by Contractor under **Section 20**, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under this Contract.

C. Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

D. End of Contract Transition

In the event this Contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of

termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 calendar days. These efforts shall include, but are not limited to, the following:

(1) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's sub-Contractors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's sub-Contractors.

(2) Knowledgeable Personnel. Contractor will make available to the State or a Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to deliver products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping and invoicing equipment and services to the State.

(3) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under the Contract. The Contractor will also provide any licenses required to perform the Services under this Contract.

(4) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of this Contract, transfer back to the State at their current revision level.

(5) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after Contract expiration that result from transition operations). The hourly rates or fixed price to be charged will be agreed upon prior to the work commencing.

(6) Single Point of Contact. Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

E. Transition out of this Contract

(1) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the Contractor agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Cooperating with any Contractors, vendors, or other entities with whom the State Contracts to meet its telecommunication needs, for at least two hundred and seventy (270) days after the termination of this Contract;
(ii) Reserved.
(iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-deliminated format unless otherwise required by the Program Office;
(iv) Reconciling all accounts between the State and the Contractor;
(v) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;
(vi) Freezing all non-critical software changes;
(vii) Notifying all of the Contractor's sub-Contractors of procedures to be followed during the transition out phase;
(viii) Assisting with the communications network turnover, if applicable;

(ix) Assisting in the execution of a parallel operation until the effective date of termination of this Contract
(x) Answering questions regarding post-migration services;
(xi) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.

(2) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Reconciling all accounts between the State and the Contractor;
(ii) Completing any pending post-project reviews.

2.703 RESERVED

2.704 RESERVED

2.705 RESERVED

2.8 Changes, Modifications, and Amendments

2.801 APPROVALS

This Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

2.802 TIME EXTENTIONS

Time extensions for Contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that this Contract completion date will be extended only for those specific elements related to the changed work and that the remaining Contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

2.803 MODIFICATION

Acquisition Services reserves the right to modify this Contract at any time during the Contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. The item(s) may be included on this Contract, only if prior written approval has been granted by Acquisition Services.

2.804 AUDIT AND RECORDS UPON MODIFICATION

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this Contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state

shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this Contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

2.805 CHANGES

(a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of this Contract, including changes:

(1) In the specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) In the State-furnished facilities, equipment, materials, services, or site; or
(4) Directing acceleration in the performance of the work.

(a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:

(1) The date, circumstances, and source of the order; and
(2) That the Contractor regards the order as a change order.

(b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

APPENDIX A
PRICING PAGE – DISCOUNT 1 (SUPPLIES WITH AED)

		PART NUMBER	PRICE
MODEL	LIFELINE	DCF-1OO	$747.00
BATTERY		DCF-200	
ELECTRODES #		DDP-100-P1	
OPTIONS:			
HIGH USE BATTERY PACK		DCF-210	
9V LITHIUM BATTERY		DAC-410	
UPGRADE TO HIGH USE – 7 YR BATTERY			$50.00
DEFIBRILLATION PAD PACKAGE		DDP-100-P1	$25.00
PEDIATRIC DEFIBRILLATION PAD		DDP-200P	$60.00
MEDIUM DATA CARD		DDC-60	$50.00
DDP-100 TO MEDTRONIC ADAPTER		DAC-300	$84.15
DDP-100 TO ZOLL M SERIES		DAC-310	$84.15
SOFT CARRYING CASE		DAC-100	$40.00
HARD CARRYING CASE		HC-100	$95.00
WALL MOUNT CABINET SURFACE		DSG300	$60.00
WALL MOUNT WITH ALARM		DSG300A	$80.00
AED MICROKIT		78-820	$15.00
UNIT OVERVIEW VIDOE		DAC-520	$10.00
AED TRAINER W/REMOTE		DCF-350T	$299.00
TRAINING PAD PACKAGE		DDP-100TR	$23.00
SOFT CARRYING CASE-TRAINER		DAC-200T	$40.00
AED SIGN		DS-100	$7.50

APPENDIX B
PRICING PAGE – DISCOUNT 2 (SUPPLIES ONLY – NO AED)

		PART NUMBER	PRICE
MODEL	LIFELINE	DCF-1OO	
BATTERY		DCF-200	$126.65
ELECTRODES #		DDP-100-P1	$32.30
OPTIONS:			
HIGH USE BATTERY PACK		DCF-210	$169.15
9V LITHIUM BATTERY		DAC-410	$7.65
PEDIATRIC DEFIBRILLATION PAD		DDP-200P	$84.15
MEDIUM DATA CARD		DDC-60	$67.15
DDP-100 TO MEDTRONIC ADAPTER		DAC-300	$84.15
DDP-100 TO ZOLL M SERIES		DAC-310	$84.15
SOFT CARRYING CASE		DAC-100	$84.15
HARD CARRYING CASE		HC-100	$144.46
WALL MOUNT CABINET SURFACE		DSG300	$84.96
WALL MOUNT WITH ALARM		DSG300A	$127.46
AED MICROKIT		78-820	$21.25
UNIT OVERVIEW VIDOE		DAC-520	$11.90
AED TRAINER W/REMOTE		DCF-350T	$339.15
TRAINING PAD PACKAGE		DDP-100TR	$24.65
SOFT CARRYING CASE-TRAINER		DAC-200T	$84.15
AED SIGN		DS-100	$12.71