

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

**CHANGE NOTICE NO. 11**  
 to  
**CONTRACT NO. 071B7200235**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
PerkinElmer Health Sciences, Inc. 710 Bridgeport AV. Shelton, CT 06484	Kevin Tucker	<a href="mailto:gds.sales@perkinelmer.com">gds.sales@perkinelmer.com</a>
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(330) 242-5312	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DCH	Harry Hawkins	(517) 335-8095	<a href="mailto:hawkinsh@michigan.gov">hawkinsh@michigan.gov</a>
BUYER:	DTMB	Kristen Robel	(517) 373-7396	<a href="mailto:robek@michigan.gov">robek@michigan.gov</a>

CONTRACT SUMMARY:			
DESCRIPTION: Neonatal Assay Test Kits and Supplies - DCH			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
August 28, 2007	August 28, 2010	2, 1 Yr. Options	August 28, 2012
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES, EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE:
<p>Effective immediately, this Contract is INCREASED by \$1,000,000.00 and EXTENDED 6 months to February 28, 2013 to allow for rebidding of the Contract. No option years are remaining.</p> <p>All other terms, conditions, specifications, and pricing remain unchanged.</p> <p>Per agency and vendor agreement, DTMB Procurement approval, and the approval of the State Administrative Board dated July 24, 2012.</p>		
VALUE/COST OF CHANGE NOTICE:	\$1,000,000.00	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$10,382,077.28	

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

April 24, 2012

**CHANGE NOTICE NO. 10**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>PerkinElmer Health Sciences, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:gds.sales@perkinelmer.com">gds.sales@perkinelmer.com</a>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7396 <b>Kristen Robel</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2012</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective April 24, 2012, the following items are hereby ADDED to this Contract:**

Description	Product #	Price Per Device
NeoBase Non-derivatized MSMS Kit (includes 3041-0020 and 3042-0020)	3040-001U	\$3,624.00
NeoBase Non-derivatized Assay Solution	3041-0020	\$573.56
NeoBase Succinylacetone Assay Solution	3042-0020	\$407.91

**In addition, the Contract value is INCREASED by \$1,000,000.00. The new Contract value is \$9,382,077.28. All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request (PRF dated 3/2/2012), State Administrative Board approval on 04/24/2012 and DTMB-Procurement's approval.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$9,382,077.28**

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

December 8, 2011

CHANGE NOTICE NO. 9  
 TO  
 CONTRACT NO. 071B7200235  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>	
PerkinElmer Health Sciences, Inc. 710 Bridgeport AV. Shelton, CT 06484  Email: <a href="mailto:gds.sales@perkinelmer.com">gds.sales@perkinelmer.com</a>		VENDOR NUMBER/MAIL CODE	
		BUYER/CA (517) 373-7396 <b>Kristen Robel</b>	
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>			
CONTRACT PERIOD:		From: <b>August 28, 2007</b>	To: <b>August 28, 2012</b>
TERMS	<b>N/A</b>	SHIPMENT	<b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM	<b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>			
MISCELLANEOUS INFORMATION:			

**NATURE OF CHANGE (S):**

Effective October 25, 2011, the following items are hereby added to this Contract due to the purchase of ID Biological by PerkinElmer Health Sciences, Inc.

Description	Price Per Device
Medical Collection Device (Blue Card)	\$0.41
Medical Collection Device (Pink Card)	\$0.41

Also, the Expiration Date of this Contract should be August 28, 2012 per Change Notice No. 7.

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

**AUTHORITY/REASON:**

Per vendor letter dated October 25, 2011 and DTMB-Procurement's approval.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$8,382,077.28**

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

November 15, 2011

**CHANGE NOTICE NO. 8**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>PerkinElmer Health Sciences, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:gds.sales@perkinelmer.com">gds.sales@perkinelmer.com</a>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7396 <b>Kristen Robel</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately, this Contract is hereby INCREASED by \$685,000.00.**

**Also, the Buyer has been changed to Kristen Robel.**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request (PRF dated 9/29/2011), State Administrative Board approval on 11/15/2011 and DTMB-Procurement's approval.**

**INCREASE: \$685,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$8,382,077.28**

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

July 20, 2011

**CHANGE NOTICE NO. 7**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
<b>PerkinElmer LAS, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>		
CONTRACT PERIOD:		From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGE (S):**

**Effective immediately, this Contract is hereby EXTENDED to August 28, 2012 and INCREASED by \$700,000.00.**

**The following additional items are hereby ADDED to this Contract:**

Material	Description	Qty	New Price	New Ext Price
1244-111	Assay buffer	6	\$133.20	\$799.20
4009-0010	Streptavidin Plates	3	\$429.30	\$1,287.90
1244-105	Enhancement solution	3	\$162.00	\$486.00
1244-114	Wash buffer	7	\$54.90	\$384.30
NEF98400	Gene screen transfer membrane	2	\$201.00	\$402.00
FP1012	Blocking reagent	3	\$403.75	\$1,211.25
NEF710001EA	Anti-fluorescence HRP conjugate	3	\$187.55	\$562.65
NEL1020	Western lightening	3	\$324.00	\$972.00
11950742	Needle seal, Gauge 22, 10 pk	12	\$368.00	\$4,416.00
11950867	Assy ESI Probe Tip	2	\$548.00	\$1,096.00
11950868	Tube SS ESI capillary (125UM ID)	24	\$151.00	\$3,624.00
11950876	Sleeve, ESI Conductive	24	\$25.00	\$600.00
11950984	O Ring Viton BS008	6	\$25.00	\$150.00

<b>Material</b>	<b>Description</b>	<b>Qty</b>	<b>New Price</b>	<b>New Ext Price</b>
11950988	Ferrule ESI-GVF 16-16, PLCZ (2 pk)	24	\$60.00	\$1,440.00
11950989	Linear Tube PTFE	6	\$55.00	\$330.00
11951243	O-ring, Viton, (AS254)	2	\$51.00	\$102.00
11951342	100ul SyringeX, gauge 22	2	\$529.00	\$1,058.00
11951343	Plunger X-line, 100ul, 3/pack	4	\$859.00	\$3,436.00
11951501	Gas Cone Nozzle for Source w/camlock	2	\$796.00	\$1,592.00
11951502	Sample Cone 0.5 dia	2	\$510.00	\$1,020.00
1445-2150	Foil Cutter for 2777c	2	\$80.00	\$160.00
1445-4020	MSMS In-line Casing	2	\$39.00	\$78.00
1445-4030	MSMS In-line Filters	4	\$81.00	\$324.00
3018-001B	Neonatal Biotinidse kit (50 plates)	35	\$3,899.00	\$136,465.00
Z1018239	Tube ss ese capillary	1	\$151.00	\$151.00

**Revised Attachment A, Pricing is attached.**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request (PRF dated 5/6/2011), vendor approval (emailed dated 6/21/2011), State Administrative Board approval on 7/19/2011 and DTMB-Purchasing Operations approval.**

**INCREASE: \$700,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$7,697,077.28**

**Contract 071B7200235**  
**Change Notice No. 7**  
**Revised Pricing**

<b>Material</b>	<b>Description</b>	<b>Qty</b>	<b>New Price</b>	<b>New Ext Price</b>
5516	NONSTERILE PIPET TIPS FOR NC-5000 20 RAC	1	\$ 231.75	\$231.75
18301	HAMILTON CLEANING WIRE W/PIN (0.00497" D	1	\$ 20.87	\$20.87
3984010	1295-4010, PRECISSETIP 550ul DT	1	\$ 155.00	\$155.00
9903610	SOL RESERVOIR SPARGER 10 MCRN	1	\$ 111.63	\$111.63
1064-05-8	DISPOSABLE AUTOMATION RESERVOIR, 96-CHAN	8	\$ 235.00	\$1,880.00
1235-402	EPPENDORF PIPETTE TIPS	33	\$ 200.85	\$6,628.05
1235-411	NEW DILUTION VESSELS (100/PKG)	48	\$ 42.23	\$2,027.04
3026-0030	NeoGram Amino Acids and Acylcarnitines, Tandem Mass Spectrometry Kit	12	\$ 8,166.42	\$97,997.04
3030-0010	NeoGram Solutions	12	\$ 450.00	\$5,400.00
3033-0010	DBS Microplate, trunc. V bottomed PK 100	30	\$ 154.50	\$4,635.00
3040-001U	AACC Neonatal Mass Spec Neobase Non-Derivitized Method Test Kit/10 plate kit – includes SUAC	200	\$ 3,808.00	\$761,600.00
B005-112	AutoDELFIA Neonatal IRT kit, Whatman 903	168	\$ 1,419.74	\$238,516.32
B015-112	AutoDELFIA Neonatal 17a-OH-progesterone	168	\$ 1,076.35	\$180,826.80
B032-312	AutoDELFIA Neonatal hTSH kit,Whatman 903	168	\$ 1,139.18	\$191,382.24
B117-100	AUTODELFIA WASH CONCENTRATE(250ML)8 BOTT	80	\$ 227.63	\$18,210.40
B118-100	AUTODELFIA ENH.SOL. (250ML) BOTTLES	75	\$ 695.25	\$52,143.75
FR-9360	Neonatal Hemoglobin kit (3600 tests)	6	\$ 1,735.55	\$10,413.30
FR-9367	JB2 STAINING SYSTEM	6	\$ 93.73	\$562.38
FR-9436	Sample Application Template, 10/pkg	1	\$ 36.05	\$36.05
GL25025342	250 UL GILSON SYRINGE, 215	1	\$ 414.00	\$414.00
GL2507252	MICRO SEPTA PROBE 125MM	1	\$ 249.26	\$249.26
GL2707273	INJECTION PORT SEAL- PK.OF 5 =1 PC.	1	\$ 104.55	\$104.55
GL49601039	ROTOR SEAL FOR RHEODYNE 7010 VALVE	1	\$ 249.26	\$249.26
GL49601040	STATOR FOR RHEODYNE 7010/7125 VALVE	1	\$ 805.00	\$805.00
GL499410522	CALIBRATED TUBING, PEEK, 52 X 1.6 X 0.25	1	\$ 65.00	\$65.00
L 1.75 X .5	1-3/4 X 1/2IN LABEL BLANK 1 ROLL =10,000	1	\$ 48.67	\$48.67
L VICBARPLATE	LABEL FOR VICTOR PLATE BARCODE, 2.323IN	1	\$ 48.67	\$48.67
NC-2125	MICROPLATE, WHITE, FLAT BOTTOM 25/PK	1	\$ 85.00	\$85.00
NC-2225	MICROPLATE, BLACK, FLAT BOTTOM 25/PK	35	\$ 87.55	\$3,064.25
NC-5004G	BLOTTING PAPER TOWELS FOR ISOTEK 50 PER	1	\$ 30.90	\$30.90
NG-1100	Neonatal GALT Kit (960 tests)	1	\$ 756.90	\$756.90
NG-4100	Neonatal GALT Kit (4800 tests)	38	\$ 2,626.50	\$99,807.00
R BAR4 RIBBON	4" BLACK WAX BAR CODE RIBBON	1	\$ 75.71	\$75.71
SX010615	SYRINGE, GAS TIGHT, 1.0 ML	1	\$ 128.00	\$128.00
SX010616	NEEDLE, SYRINGE, LUER HUB, 2'	1	\$ 18.00	\$18.00
SX011281	TOOL, TUBE CUTTER, PEAK	1	\$ 13.79	\$13.79
SX011556	TUBE, TEFLON 1/32"ID X 1/16"OD, PK/152	1	\$ 90.00	\$90.00
SX012627	FITTING, RHEFLEX 1/16	1	\$ 13.00	\$13.00
SX012637	FERRULE, RHEFLEX 1/16	1	\$ 4.00	\$4.00
SX014629	SWABS	1	\$ 1.00	\$1.00
SX015968	FITTING, UNION 1/16, .010 ORIF	1	\$ 83.00	\$83.00
SX016316	PEEK TUBING, 1/16 OD X .005 ID PEEK RED,	1	\$ 28.00	\$28.00

<b>Material</b>	<b>Description</b>	<b>Qty</b>	<b>New Price</b>	<b>New Ext Price</b>
SX016325	FITTING PEEK 10/32 X 1/16"	1	\$ 11.54	\$11.54
SX016485	PEEK TUBING, .0025 ID, EA = (5Ft length)	1	\$ 15.00	\$15.00
SX017960	PCB ETP MULTIPLIER	1	\$ 1,867.18	\$1,867.18
SX018768	ASSY ORIFICE TPH	1	\$ 2,761.00	\$2,761.00
SX018782	METAL ELECTRODE TUBING	1	\$ 55.00	\$55.00
SX018786	UNION FITTING (0.15MM BORE)	1	\$ 72.45	\$72.45
SX019670	TOOL, SWAB, ANTI-STATIC FOAM, WIDE	1	\$ 1.00	\$1.00
SX019674	FERRULE* 1/16" VALCON TPH	1	\$ 55.00	\$55.00
SX1018148	PCBA*DUAL TEMPERATURE CONTROL	1	\$ 1,847.00	\$1,847.00
Z015019	OEM-SWITCH PRESSURE (CURTAIN GAS)	1	\$ 77.25	\$77.25

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

January 18, 2011

CHANGE NOTICE NO. 6  
TO  
CONTRACT NO. 071B7200235  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-0301 <b>Sue Ciecwiwa</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately this Contract is hereby INCREASED by \$700,000.00.**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request dated December 8, 2010 and State Administrative Board approval on January 18, 2011.**

**INCREASE: \$700,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$6,997,077.28**

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 17, 2010

**CHANGE NOTICE NO. 5**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately this Contract is hereby INCREASED by \$24,000.00**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request dated December 15, 2010 and DTMB Purchasing Operations approval.**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$6,297,077.28**

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

September 8, 2010

CHANGE NOTICE NO. 4  
 TO  
 CONTRACT NO. 071B7200235  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately, the following additional items are hereby ADDED to this Contract:**

Material	Description	Unit Price
11950868	Tube SS ESI capillary (125UM ID)	\$151.00
11950876	Sleeve, ESI Conductive	\$25.00
11950988	Ferrule ESI-GVF 16-16, PLCZ (2 pk)	\$60.00
11950989	Linear Tube PTFE	\$55.00
11950984	O Ring Viton BS008	\$25.00
11950867	Assy ESI Probe Tip	\$548.00
11951501	Gas Cone Nozzle for Source w/camlock	\$796.00
11951502	Sample Cone 0.5 dia	\$510.00
11951243	O-ring, Viton, (AS254)	\$51.00
11951343	Plunger X-line, 100ul, 3/pack	\$859.00
11950742	Needle seal, Gauge 22, 10 pk	\$368.00
1445-4030	MSMS In-line Filters	\$81.00
11951342	100ul SyringeX, gauge 22	\$529.00
1445-2150	Foil Cutter for 2777c	\$80.00
1445-4020	MSMS In-line Casing	\$39.00

**Revised Attachment A, Pricing is attached.**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per agency request dated September 8, 2010 and vendor agreement by proposal dated July 23, 2010.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$6,273,077.28**

ATTACHMENT A  
Pricing

Material	Description	Unit Price
B005-112	AutoDELFI A Neonatal IRT kit, Whatman 903	\$1,378.39
1235-402	EPPENDORF PIPETTE TIPS	\$195.00
1235-411	NEW DILUTION VESSELS (100/PKG)	\$41.00
5516	NONSTERILE PIPET TIPS FOR NC-5000 20 RAC	\$225.00
B032-312	AutoDELFI A Neonatal hTSH kit,Whatman 903	\$1,106.00
B015-112	AutoDELFI A Neonatal 17a-OH-progesterone	\$1,045.00
B117-100	AUTODELFI A WASH CONCENTRATE(250ML)8 BOTT	\$221.00
B118-100	AUTODELFI A ENH.SOL. (250ML) BOTTLES	\$675.00
FR-9360	Neonatal Hemoglobin kit (3600 tests)	\$1,685.00
FR-9367	JB2 STAINING SYSTEM	\$91.00
FR-9436	Sample Application Template, 10/pkg	\$35.00
L 1.75 X .5	1-3/4 X 1/2IN LABEL BLANK 1 ROLL =10,000	\$47.25
L VICBARPLATE	LABEL FOR VICTOR PLATE BARCODE, 2.323IN	\$47.25
NC-2125	MICROPLATE, WHITE, FLAT BOTTOM 25/PK	\$85.00
NC-2225	MICROPLATE, BLACK, FLAT BOTTOM 25/PK	\$85.00
3033-0010	DBS Microplate, trunc. V bottomed PK 100	\$150.00
NC-5004G	BLOTTING PAPER TOWELS FOR ISOTEK 50 PER	\$30.00
NG-1100	Neonatal GALT Kit (960 tests)	\$575.00
NG-4100	Neonatal GALT Kit (4800 tests)	\$2,550.00
3040-001U	AACC Neonatal Mass Spec Neobase Non-Derivitized Method Test Kit/10 plate kit – includes SUAC	\$3,808.00
R BAR4 RIBBON	4" BLACK WAX BAR CODE RIBBON	\$73.50
3026-0030	NeoGram Amino Acids and Acylcarnitines, Tandem Mass Spectrometry Kit	\$10,930.00
3030-0010	NeoGram Solutions	\$450.00
GL2707273	INJECTION PORT SEAL- PK.OF 5 =1 PC.	\$91.80
GL499410522	CALIBRATED TUBING, PEEK, 52 X 1.6 X 0.25	\$44.00
GL49601039	ROTOR SEAL FOR RHEODYNE 7010 VALVE	\$218.28
GL2507252	MICRO SEPTA PROBE 125MM	\$242.00
9903610	SOL RESERVOIR SPARGER 10 MCRN	\$111.63
SX016325	FITTING PEEK 10/32 X 1/16"	\$11.20
SX019674	FERRULE* 1/16" VALCON TPH	\$10.00
SX016316	PEEK TUBING, 1/16 OD X .005 ID PEEK RED,	\$36.00
SX016485	PEEK TUBING, .0025 ID, EA = (5Ft length)	\$7.20
SX018782	METAL ELECTRODE TUBING	\$42.48
SX018786	UNION FITTING (0.15MM BORE)	\$70.34
18301	HAMILTON CLEANING WIRE W/PIN (0.00497" D	\$19.20
SX011281	TOOL, TUBE CUTTER, PEAK	\$13.00
SX012627	FITTING, RHEFLEX 1/16	\$11.26
SX012637	FERRULE, RHEFLEX 1/16	\$3.82
GL49601040	STATOR FOR RHEODYNE 7010/7125 VALVE	\$724.20
SX014629	SWABS	\$1.00
SX019670	TOOL, SWAB, ANTI-STATIC FOAM, WIDE	\$1.00
SX010615	SYRINGE, GAS TIGHT, 1.0 ML	\$128.00
SX011556	TUBE, TEFLON 1/32"ID X 1/16"OD, PK/152	\$9.00
SX015968	FITTING, UNION 1/16, .010 ORIF	\$83.00
GL25025342	250 UL GILSON SYRINGE, 215	\$414.00
SX010616	NEEDLE, SYRINGE, LUER HUB, 2'	\$18.00
1064-05-8	DISPOSABLE AUTOMATION RESERVOIR, 96-CHAN	\$235.00
3984010	1295-4010, PRECISETIP 550ul DT	\$155.00
SX017960	PCB ETP MULTIPLIER	\$1,760.00
SX018768	ASSY ORIFICE TPH	\$2,761.00
SX1018148	PCBA*DUAL TEMPERATURE CONTROL	\$1,847.00
Z015019	OEM-SWITCH PRESSURE (CURTAIN GAS)	\$75.00

ATTACHMENT A  
Pricing (Continued)

Material	Description	Unit Price
11950868	Tube SS ESI capillary (125UM ID)	\$151.00
11950876	Sleeve, ESI Conductive	\$25.00
11950988	Ferrule ESI-GVF 16-16, PLCZ (2 pk)	\$60.00
11950989	Linear Tube PTFE	\$55.00
11950984	O Ring Viton BS008	\$25.00
11950867	Assy ESI Probe Tip	\$548.00
11951501	Gas Cone Nozzle for Source w/camlock	\$796.00
11951502	Sample Cone 0.5 dia	\$510.00
11951243	O-ring, Viton, (AS254)	\$51.00
11951343	Plunger X-line, 100ul, 3/pack	\$859.00
11950742	Needle Seal, Gauge 22, 10 pk	\$368.00
1445-4030	MSMS In-line Filters	\$81.00
11951342	100ul SyringeX, gauge 22	\$529.00
1445-2150	Foil Cutter for 2777c	\$80.00
1445-4020	MSMS In-line Casing	\$39.00

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

March 12, 2010

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
PerkinElmer LAS, Inc. 710 Bridgeport AV. Shelton, CT 06484  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>		
CONTRACT PERIOD:		From: <b>August 28, 2007</b> To: <b>August 28, 2011</b>
TERMS	N/A	SHIPMENT N/A
F.O.B.	N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGE (S):**

Effective immediately, this Contract is hereby EXTENDED one year to August 28, 2011.

In addition, the following additional item is hereby ADDED to this Contract:

Material	Description	Unit Price
3040-001U	AACC Neonatal Mass Spec Neobase Non-Derivitized Method Test Kit/10 plate kit – includes SUAC	\$3,808.00

Revised Attachment A, Pricing is attached.

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

**AUTHORITY/REASON:**

Per agency request dated February 23, 2010, DMB, Purchasing Operations letter dated March 2, 2010 and vendor agreement by letter dated March 11, 2010 and proposal dated October 9, 2009.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$6,273,077.28**

ATTACHMENT A  
Pricing

Material	Description	Unit Price
B005-112	AutoDELFI A Neonatal IRT kit, Whatman 903	\$1,378.39
1235-402	EPPENDORF PIPETTE TIPS	\$195.00
1235-411	NEW DILUTION VESSELS (100/PKG)	\$41.00
5516	NONSTERILE PIPET TIPS FOR NC-5000 20 RAC	\$225.00
B032-312	AutoDELFI A Neonatal hTSH kit,Whatman 903	\$1,106.00
B015-112	AutoDELFI A Neonatal 17a-OH-progesterone	\$1,045.00
B117-100	AUTODELFI A WASH CONCENTRATE(250ML)8 BOTT	\$221.00
B118-100	AUTODELFI A ENH.SOL. (250ML) BOTTLES	\$675.00
FR-9360	Neonatal Hemoglobin kit (3600 tests)	\$1,685.00
FR-9367	JB2 STAINING SYSTEM	\$91.00
FR-9436	Sample Application Template, 10/pkg	\$35.00
L 1.75 X .5	1-3/4 X 1/2IN LABEL BLANK 1 ROLL =10,000	\$47.25
L VICBARPLATE	LABEL FOR VICTOR PLATE BARCODE, 2.323IN	\$47.25
NC-2125	MICROPLATE, WHITE, FLAT BOTTOM 25/PK	\$85.00
NC-2225	MICROPLATE, BLACK, FLAT BOTTOM 25/PK	\$85.00
3033-0010	DBS Microplate, trunc. V bottomed PK 100	\$150.00
NC-5004G	BLOTTING PAPER TOWELS FOR ISOTEK 50 PER	\$30.00
NG-1100	Neonatal GALT Kit (960 tests)	\$575.00
NG-4100	Neonatal GALT Kit (4800 tests)	\$2,550.00
3040-001U	AACC Neonatal Mass Spec Neobase Non-Derivitized Method Test Kit/10 plate kit – includes SUAC	\$3,808.00
R BAR4 RIBBON	4" BLACK WAX BAR CODE RIBBON	\$73.50
3026-0030	NeoGram Amino Acids and Acylcarnitines, Tandem Mass Spectrometry Kit	\$10,930.00
3030-0010	NeoGram Solutions	\$450.00
GL2707273	INJECTION PORT SEAL- PK.OF 5 =1 PC.	\$91.80
GL499410522	CALIBRATED TUBING, PEEK, 52 X 1.6 X 0.25	\$44.00
GL49601039	ROTOR SEAL FOR RHEODYNE 7010 VALVE	\$218.28
GL2507252	MICRO SEPTA PROBE 125MM	\$242.00
9903610	SOL RESERVOIR SPARGER 10 MCRN	\$111.63
SX016325	FITTING PEEK 10/32 X 1/16"	\$11.20
SX019674	FERRULE* 1/16" VALCON TPH	\$10.00
SX016316	PEEK TUBING, 1/16 OD X .005 ID PEEK RED,	\$36.00
SX016485	PEEK TUBING, .0025 ID, EA = (5Ft length)	\$7.20
SX018782	METAL ELECTRODE TUBING	\$42.48
SX018786	UNION FITTING (0.15MM BORE)	\$70.34
18301	HAMILTON CLEANING WIRE W/PIN (0.00497" D	\$19.20
SX011281	TOOL, TUBE CUTTER, PEAK	\$13.00
SX012627	FITTING, RHEFLEX 1/16	\$11.26
SX012637	FERRULE, RHEFLEX 1/16	\$3.82
GL49601040	STATOR FOR RHEODYNE 7010/7125 VALVE	\$724.20
SX014629	SWABS	\$1.00
SX019670	TOOL, SWAB, ANTI-STATIC FOAM, WIDE	\$1.00
SX010615	SYRINGE, GAS TIGHT, 1.0 ML	\$128.00
SX011556	TUBE, TEFLON 1/32"ID X 1/16"OD, PK/152	\$9.00
SX015968	FITTING, UNION 1/16, .010 ORIF	\$83.00
GL25025342	250 UL GILSON SYRINGE, 215	\$414.00
SX010616	NEEDLE, SYRINGE, LUER HUB, 2'	\$18.00
1064-05-8	DISPOSABLE AUTOMATION RESERVOIR, 96-CHAN	\$235.00
3984010	1295-4010, PRECISE TIP 550ul DT	\$155.00
SX017960	PCB ETP MULTIPLIER	\$1,760.00
SX018768	ASSY ORIFICE TPH	\$2,761.00
SX1018148	PCBA*DUAL TEMPERATURE CONTROL	\$1,847.00
Z015019	OEM-SWITCH PRESSURE (CURTAIN GAS)	\$75.00

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

November 6, 2009

**CHANGE NOTICE NO. 2**  
**TO**  
**CONTRACT NO. 071B7200235**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
<b>PerkinElmer LAS, Inc.</b> <b>710 Bridgeport AV.</b> <b>Shelton, CT 06484</b>  Email: <a href="mailto:Kevin.tucker@perkinelmer.com">Kevin.tucker@perkinelmer.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>		
CONTRACT PERIOD:		From: <b>August 28, 2007</b> To: <b>August 28, 2010</b>
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGE (S):**

Effective immediately, Part Code Number 3026-0010 is hereby **CHANGED** to the following Part Code Numbers, due to change in packaging and shipping:

**3026-0030 NeoGram Amino Acids and Acylcarnitines, Tandem Mass Spectrometry Kit, Unit Price \$10,930.00**

**3030-0010 NeoGram Solutions, Unit Price \$450.00**

Total pricing for both components is the same as the original contract pricing for Part Code Number 3026-0010.

In addition, the following additional items are hereby **ADDED** to this Contract:

Material	Description	Unit Price
1064-05-8	DISPOSABLE AUTOMATION RESERVOIR, 96-CHAN	\$235.00
3984010	1295-4010, PRECISETIP 550ul DT	\$155.00
SX017960	PCB ETP MULTIPLIER	\$1,760.00
SX018768	ASSY ORIFICE TPH	\$2,761.00
SX1018148	PCBA*DUAL TEMPERATURE CONTROL	\$1,847.00
Z015019	OEM-SWITCH PRESSURE (CURTAIN GAS)	\$75.00

**Contract No. 071B7200235**

**Change Notice No. 2**

**Page 2**

**Revised Attachment A, Pricing is attached.**

**In addition, the buyer is hereby changed to:**

**Sue Cieciva, Buyer Specialist**

**Phone: (517) 373-0301**

**Fax: (517) 335-0046**

**Email: [cieciwas@michigan.gov](mailto:cieciwas@michigan.gov)**

**All other terms, conditions, specifications and pricing remain the same.**

**AUTHORITY/REASON:**

**Per vendor request by email dated October 13, 2009 and Agency agreement dated October 21, 2009.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$6,273,077.28**

ATTACHMENT A  
Pricing

Material	Description	Unit Price
B005-112	AutoDELFI A Neonatal IRT kit, Whatman 903	\$1,378.39
1235-402	EPPENDORF PIPETTE TIPS	\$195.00
1235-411	NEW DILUTION VESSELS (100/PKG)	\$41.00
5516	NONSTERILE PIPET TIPS FOR NC-5000 20 RAC	\$225.00
B032-312	AutoDELFI A Neonatal hTSH kit,Whatman 903	\$1,106.00
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GL499410522	CALIBRATED TUBING, PEEK, 52 X 1.6 X 0.25	\$44.00
GL49601039	ROTOR SEAL FOR RHEODYNE 7010 VALVE	\$218.28
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9903610	SOL RESERVOIR SPARGER 10 MCRN	\$111.63
SX016325	FITTING PEEK 10/32 X 1/16"	\$11.20
SX019674	FERRULE* 1/16" VALCON TPH	\$10.00
SX016316	PEEK TUBING, 1/16 OD X .005 ID PEEK RED,	\$36.00
SX016485	PEEK TUBING, .0025 ID, EA = (5Ft length)	\$7.20
SX018782	METAL ELECTRODE TUBING	\$42.48
SX018786	UNION FITTING (0.15MM BORE)	\$70.34
18301	HAMILTON CLEANING WIRE W/PIN (0.00497" D	\$19.20
SX011281	TOOL, TUBE CUTTER, PEAK	\$13.00
SX012627	FITTING, RHEFLEX 1/16	\$11.26
SX012637	FERRULE, RHEFLEX 1/16	\$3.82
GL49601040	STATOR FOR RHEODYNE 7010/7125 VALVE	\$724.20
SX014629	SWABS	\$1.00
SX019670	TOOL, SWAB, ANTI-STATIC FOAM, WIDE	\$1.00
SX010615	SYRINGE, GAS TIGHT, 1.0 ML	\$128.00
SX011556	TUBE, TEFLON 1/32"ID X 1/16"OD, PK/152	\$9.00
SX015968	FITTING, UNION 1/16, .010 ORIF	\$83.00
GL25025342	250 UL GILSON SYRINGE, 215	\$414.00
SX010616	NEEDLE, SYRINGE, LUER HUB, 2'	\$18.00
1064-05-8	DISPOSABLE AUTOMATION RESERVOIR, 96-CHAN	\$235.00
3984010	1295-4010, PRECISE TIP 550ul DT	\$155.00
SX017960	PCB ETP MULTIPLIER	\$1,760.00
SX018768	ASSY ORIFICE TPH	\$2,761.00
SX1018148	PCBA*DUAL TEMPERATURE CONTROL	\$1,847.00
Z015019	OEM-SWITCH PRESSURE (CURTAIN GAS)	\$75.00

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. 1  
TO  
CONTRACT NO. 071B7200235  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc. 710 Bridgeport AV. Shelton, CT 06484</b>	TELEPHONE: Kevin Tucker <b>(330) 242-5312</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-2005 <b>Lisa Morrison</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2010</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately the contact telephone number has been changed to (330) 242-5312 and the vendor mail code is (012).**

**All other terms and conditions, specifications, and pricing remain unchanged.**

**AUTHORITY/REASON:**

**Per agency contact and DMB Purchasing Operations.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$6,273,077.28**

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

September 7, 2007

**NOTICE  
 OF  
 CONTRACT NO. 071B7200235  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc.          710 Bridgeport AV.          Shelton, CT 06484</b>	TELEPHONE: Kevin Tucker <b>1 (800) 762-4000 Ext. 1 or 2</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-2005 <b>Lisa Morrison</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

The terms and conditions of this Contract are those of **ITB #07117200091** this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

**Estimated Contract Value: \$6,273,077.28**

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

**CONTRACT NO. 071B7200235  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>PerkinElmer LAS, Inc.          710 Bridgeport AV.          Shelton, CT 06484</b>	TELEPHONE: Kevin Tucker <b>1 (800) 762-4000 Ext. 1 or 2</b> VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 241-2005 <b>Lisa Morrison</b>
Contract Compliance Inspector: <b>Neonatal Assay Test Kits and Supplies - DCH</b>	
CONTRACT PERIOD: From: <b>August 28, 2007</b> To: <b>August 28, 2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of <a href="#">ITB #071I7200091</a> this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</b>  <b>Estimated Contract Value: \$6,273,077.28</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No.071I7200091](#). Orders for delivery will be issued directly by the [Department of Community Health](#) 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:**

**PerkinElmer LAS, Inc.**  
 \_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Authorized Agent Signature

\_\_\_\_\_  
 Authorized Agent (Print or Type)

\_\_\_\_\_  
 Date

**FOR THE STATE:**

\_\_\_\_\_  
 Signature  
**Anthony Des Chenes, Director**  
 \_\_\_\_\_  
 Name/Title  
**Commodities Division, Purchasing  
 Operations**  
 \_\_\_\_\_  
 Division

\_\_\_\_\_  
 Date



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## **Article 1 – Statement of Work (SOW)**

### **1.0 Project Identification**

#### **1.01 PROJECT REQUEST**

The purpose of this contract is to obtain neonatal assay test kits and supplies for newborn screening testing for the Bureau of Laboratories.

#### **1.002 BACKGROUND**

Newborn screening tests have been performed in the State of Michigan laboratories since 1965 with the phenylketonuria (PKU) test. The testing is performed on dried heel stick blood samples collected on special filter paper to detect disorders that can cause physical problems, mental impairment, or death if left untreated. The filter paper is regulated for quality and is considered a medical device by the Food and Drug Administration. Usually cases are found before clinical signs are observed. Treatment may include diet changes, hormones, supplements, or avoidance of fasting.

The program was legislatively mandated through Public Health Code Act 368 in 1978 with additional amendments since 1986. The law designates the State of Michigan to perform the testing and identifies the metabolic disorders to be screened. The program also provides a mechanism to add tests, fund the program, and also mandates other details of program operation.

Other disorders were added in 1977, 1985, 1993, 2003, 2004, and 2006. Recent expansion of the list of disorders screened has increased the total to over 45 diseases. Most of the expansion is a result of tandem mass spectrometry instrumentation. There has been increased interest in standardizing test panels between states by the Federal government and organizations such as the March of Dimes. The Health Resources and Services Administration in the U.S. Department of Health and Human Services commissioned a report by the American College of Medical Genetics in 2005 that delineated a list of disorders recommended for newborn screening. Michigan screens for all the primary disorders mentioned in the report except cystic fibrosis.

The Bureau of Laboratories tests more than 135,000 samples each year. Laboratory testing is one part of the newborn screening program. There is also a follow up component to ensure that the babies identified with disorders get proper treatment. Contracts with Medical Management Centers support the baby's doctors with patient care issues. This comprehensive program that identifies a baby's life-threatening disorder and makes sure they get proper diagnosis and care is a model that has been emulated by many other state newborn screening programs.

### **1.1 Scope of Work and Deliverables**

#### **1.101 IN SCOPE**

##### **A. General Specifications**

1. The laboratory performs tests with FDA approved kits for various analytes and disorders.
2. The FDA must currently approve the testing system and all kits.
3. All equipment necessary for the above testing for various analytes and disorders must be provided and serviced by the Bidder. Bidder's proposal shall list each piece of proposed equipment, make and model, and a description of the equipment and its function. The following list is the number of instruments that are currently used with kits purchased through reagent rental:

- (3) Autodelfia automatic immunoassay systems
- (2) MSMS systems which includes pumps and autosamplers
- (2) Victor Fluorometers
- (3) Isotek transfer stations
- (9) Incubator shakers



4. The test kits must work on instruments provided by the vendor through a reagent rental agreement. These kits must pass validation tests as lot numbers change and have expiration dates four (4) months out from date of receipt.
5. Vendor shall specify all costs, including those for ancillary materials including, but not limited to, testing and preventive maintenance requirements for the assays as well as any equipment or instrumentation needed to perform these assays. All possible ancillary and consumable items and their cost must be included. Equipment rental or lease must be included in the reagent costs.
6. The cost of the instrumentation needed to perform the tests is included in the price of the kits. Shipping and quantity discounts should also be included in the pricing.
7. Shipping schedules will be provided by the newborn screening laboratory to ensure enough products is always available and that there is enough refrigerator space to hold the inventory until it is needed.
8. Vendor shall specify all preventive maintenance (PM) to be conducted on proposed equipment. PM shall be per equipment manufacturer's instructions. Vendor shall specify which PM can be conducted by DCH laboratory personnel, and which PM shall be conducted by Vendor or manufacturer's representative. If PM task is to be completed by DCH laboratory personnel, the Vendor shall include a description of the PM task and estimated time for completion.
9. Any and all software upgrades must be provided without cost to the State of Michigan. The Vendor must provide on-site training after each software change, enhancement, or upgrade. The Vendor must provide and maintain software on the primary equipment set-up and on a backup computer to be provided by the State of Michigan.
10. The State is specifying an estimated annual usage for each assay, but shall not offer a guaranteed number of purchases, whether for the overall contract, per year, or per quarter.
11. The following list is the reagent kits purchased through reagent rental:
  - Kits are listed in Attachment A Pricing
  - The following list is the consumables used with the kits:
    - Consumables are listed in Attachment A Pricing
12. The Vendor is responsible for providing repair and/or replacement of equipment upon failure. Repair and/or replacement of equipment must be completed within three (3) working days of receipt of notice of equipment failure.
13. Vendor shall have a Michigan sales representative that will meet with DCH at their site no less than once per year.
14. Vendor shall be responsible for equipment interface to a Laboratory Information system, upon request.
15. Customer service support available hours.
  - a. Technical Support is available between 8 AM and 5 PM Eastern Standard Time. Support for Ordering Information is available from 8 AM and 6 PM Eastern Standard Time.
16. Vendor's toll-free telephone number for technical support is 1-800-762-4000 and toll-free telephone number for support for ordering information is 1-800-321-9632.

#### B. Phase 1 – Validation of Vendor's Equipment

17. Equipment and consumable products must pass validation/verification at MDCH. Validation/verification will include comparisons to ensure the accuracy, precision, sensitivity and specificity of each assay using State of Michigan laboratory personnel.



18. All kits, reagents and consumables necessary for validation/verification shall be provided without cost. Numbers of samples used in this process will be limited to 5,000 test samples for each assay if validation is necessary. Therefore, the Vendor will supply, without cost, enough testing supplies to test up to 5,000 samples for each assay if validation is necessary.

C. Phase 2 – Purchase of consumables in exchange for equipment “no cost loan”

19. The consumables must have at least a four-month outdate from date of receipt. If products are received without a four-month expiration date, any unused product to be refunded or replaced at no charge.

20. The Vendor must be able to provide delivery schedules as determined by the laboratory standing purchase order for the kits. Due to time sensitive nature of the consumables, no product is to be shipped outside of the established standing order schedule.

### 1.102 OUT OF SCOPE

Repairs or replacement due to damage of equipment by State of Michigan staff will be considered out of scope, and shall be subject to out of scope labor rates.

Damage to reagents due to refrigeration failure or improper storage after receipt by DCH staff will not be the responsibility of the Vendor.

All travel costs related to out of scope repairs and/or training shall be reimbursed at established State of Michigan rates, available at [http://www.mi.gov/dmb/0,1607,7-150-9141\\_13132---,00.html](http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html). Travel cost reimbursements shall not exceed the listed rates.

Vendor shall specify out of scope labor and training rates.

### 1.103 ENVIRONMENT

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

1. All reagents must be shipped at the laboratory's request only.
2. Vendor must provide all software upgrades and training on upgraded software free of charge. This applies to all instruments covered in Section 1.101, but not including Specimen Gate upgrades.
3. Vendor must replace or repair any non-working equipment within three (3) business days. If such repair or replacement is needed, Vendor must pay all shipping associated with the return and delivery of equipment.
4. Any computer included in the instrumentation must be capable of functioning as a stand-alone computer (not networked). This computer must be interfaced with the Laboratory Information System (LIMS).

### 1.104 WORK AND DELIVERABLE

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

- a) Vendor shall provide all consumables necessary for assay validation/verification free of charge (enough testing supplies to test up to 5,000 samples when validating a new assay).
- b) Reagents and supplies will be ordered per an established delivery schedule



- c) Vendor must provide all software upgrades and training on upgraded software free of charge. This does not apply to Specimen Gate upgrades.
- d) Vendor must replace or repair any non-working equipment within three (3) business days. If such repair or replacement is needed, Vendor must pay all shipping associated with the return and delivery of equipment.

## 1.2 Roles and Responsibilities

### **1.201 VENDOR STAFF, ROLES, AND RESPONSIBILITIES**

The State will reserve the right to approve the Vendor's assignment of key personnel to this project and to recommend reassignment deemed unsatisfactory by the State.

### **1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES**

The person named below will oversee the project on a day-to-day basis during the term of the contract:

Harry Hawkins  
Michigan Department of Community Health  
Bureau of Laboratories  
517-335-8095  
[HawkinsH@michigan.gov](mailto:HawkinsH@michigan.gov)

### **1.203 OTHER ROLES AND RESPONSIBILITIES – RESERVED**

## 1.3 Project Plan

### **1.301 PROJECT PLAN MANAGEMENT**

The Vendor shall carry out this project under the direction and control of the Michigan Department of Community Health, Bureau of Laboratories.

### **1.302 REPORTS**

- a) Vendor shall provide the Contract Compliance Inspector with a field service report after each site visit by the field representative documenting all work completed. Field service reports shall be submitted for the following but are not limited to: preventative maintenance, repairs, and software upgrades
- b) Vendor shall have the capability to provide a summary report detailing an annual or multi-year repair history for each piece of equipment, upon request.
- c) Vendor shall have the capability to provide an annual or multi-year consumables usage report for all products purchased, upon request.
- d) Vendor shall specify all standard reports available, and shall specifically state if they cannot provide all of the reports listed above.

## 1.4 Project Management

### **1.401 ISSUE MANAGEMENT – RESERVED**



#### 1.402 RISK MANAGEMENT

As the Vendor becomes aware of product backorders or FDA issues, including but not limited to, product recalls, notification must be sent to the individual listed in Section 2.015 of this document. This notification must be received within 5 business days.

#### 1.403 CHANGE MANAGEMENT

If a proposed contract change is approved by the Contract Compliance Inspector, the Contract Compliance Inspector will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.**

### 1.5 Acceptance

#### 1.501 CRITERIA

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW.

##### a) Of Equipment

If the Vendor's test system does not pass validation/verification performed at MDCH on any of the assays, MDCH has no obligation to continue the Contract. To pass validation/verification, 98% of characterized human specimens tested must be in agreement with known status of that specimen. All discrepant samples will be assayed by a third method at an outside laboratory. Status of discrepant samples will be determined by the result of 2/3 of the assay methods.

##### b) Of Consumables

Each shipment of reagents must have an expiration date of four (4) months or longer from date of delivery. If the expiration date on received product is less than four (4) months, the shipment can be rejected in total or the Vendor will replace any unused product after expiration without charge. If the shipment is rejected, Vendor will pay for return shipping charges.

#### 1.502 FINAL ACCEPTANCE

##### a) Of Equipment

If the Vendor's test system does not pass validation/verification performed at MDCH on any of the assays, MDCH has no obligation to continue the contract. To pass validation/verification, 98% of characterized human specimens tested must be in agreement with known status of that specimen. All discrepant samples will be assayed by a third method at an outside laboratory. Status of discrepant samples will be determined by the result of 2/3 of the assay methods.

##### b) Of Consumables

Each shipment of reagents must have an expiration date of four (4) months or longer from date of delivery. If the expiration date on received product is less than four (4) months, the shipment can be rejected in total or the Vendor will replace any unused product after expiration without charge. If the shipment is rejected, Vendor will pay for return shipping charges.



## 1.6 Compensation and Payment

### **1.601 COMPENSATION AND PAYMENT**

- a) Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.
- b) Prices may be 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. Purchasing Operations 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). Purchasing Operations 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.
- c) 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.
- d) State payment terms are Net 45 days. Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.
- e) The State of Michigan is interested in payment terms that reflect cost savings to the State based on an accelerated payment process.

## 1.7 Additional Terms and Conditions Specific to this SOW

### **1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW**

RESERVED



## Article 2 – General Terms and Conditions

### 2.010 Contract Structure and Administration

#### **2.011 Definitions**

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Vendor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates.
- (e) “Audit Period” has the meaning given in **Section 2.111**.
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201** , as Key Personnel.
- (k) “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Vendor with additional consideration. “New Work” does not include Additional Service.
- (l) “Services” means any function performed for the benefit of the State.
- (m) “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) “SubContractor” means a company Vendor delegates performance of a portion of the Services to, but does not include independent Vendors engaged by Vendor solely in a staff augmentation role.
- (o) “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

#### **2.012 Attachments and Exhibits**

All Attachments and/or Exhibits attached to any, and all Statement(s) of Work, attached to, or referencing this Contract, are incorporated in their entirety into, and form part of, this Contract.

#### **2.013 Statements of Work - RESERVED**

#### **2.014 Issuing Office**

This Contract is issued by the Department of Management and Budget, Office of Purchasing Operations (“OPO”) and the Department of Community Health (collectively, including all other relevant State of Michigan departments and agencies, the “State”). OPO is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **OPO is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Vendor Administrator within the Office of Purchasing Operations for this Contract is:



Lisa Morrison  
Office of Purchasing Operations  
Department of Management and Budget  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
Email [morrisonl1@michigan.gov](mailto:morrisonl1@michigan.gov)  
Phone 517-241-2005

## 2.015 Contract Compliance Inspector

Upon receipt at OPO of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with the Department of Community Health (DCH), will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Harry Hawkins  
Department of Community Health  
Bureau of Laboratories  
3350 N. Martin Luther King, Jr. Blvd.  
Lansing, MI 48909  
Email: [hawkinsh@michigan.gov](mailto:hawkinsh@michigan.gov)  
Phone: 517-335-8095

## 2.016 Project Manager - RESERVED

### 2.020 Contract Objectives/Scope/Background

## 2.021 Background - RESERVED

## 2.022 Purpose - RESERVED

## 2.023 Objectives and Scope - RESERVED

## 2.024 Interpretation - RESERVED

## 2.025 Form, Function and Utility - RESERVED

### 2.030 Legal Effect and Term

## 2.031 Legal Effect

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Vendor or payment under this Contract, until Vendor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

## 2.032 Contract Term

This Contract is for a period of three (3) years commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise



extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

### 2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. The Contract may be renewed for up to two (2) additional one (1) year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

### 2.040 Vendor Personnel

#### 2.041 Vendor Personnel

- (a) Personnel Qualifications. All persons assigned by Vendor to the performance of Services under this Contract shall be employees of Vendor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved SubContractor) and shall be fully qualified to perform the work assigned to them. Vendor shall include a similar provision in any subcontract entered into with a SubContractor. For the purposes of this Contract, independent Vendors engaged by Vendor solely in a staff augmentation role shall be treated by the State as if they were employees of Vendor for this Contract only; however, the State understands that the relationship between Vendor and SubContractor is an independent Vendor relationship.
- (b) Key Personnel – RESERVED
- (c) Re-assignment of non-Key Personnel – RESERVED
- (d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Vendor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall be fully qualified for the position. If the State exercises this right, and the Vendor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal.
- (e) Staffing Levels - RESERVED
- (f) Personnel Turnover. – RESERVED
- (g) Location. – RESERVED

#### 2.042 Vendor Identification

Vendor employees shall be clearly identifiable while on State property by wearing a State-issued badge, as required. Vendor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

#### 2.043 Cooperation with Third Parties - RESERVED

#### 2.044 Subcontracting by Vendor

- (a) Vendor shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Vendor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.
- (b) Vendor shall not delegate any duties under this Contract to a SubContractor unless the Department of Management and Budget, Office of Purchasing Operations has given written



consent to such delegation. The State shall have the right of prior written approval of all SubContractors and to require Vendor to replace any SubContractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement SubContractor(s) for the removed SubContractor shall be fully qualified for the position. If the State exercises this right, and the Vendor cannot immediately replace the removed SubContractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal.

- (c) In any subcontracts entered into by Vendor for the performance of the Services, Vendor shall require the SubContractor, to the extent of the Services to be performed by the SubContractor, to be bound to Vendor by the terms of this Contract and to assume toward Vendor all of the obligations and responsibilities that Vendor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Vendor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any SubContractor will be the responsibility of Vendor, and Vendor shall remain responsible for the performance of its SubContractors to the same extent as if Vendor had not subcontracted such performance. Vendor shall make all payments to SubContractors or suppliers of Vendor. Except as otherwise agreed in writing by the State and Vendor, the State will not be obligated to direct payments for the Services other than to Vendor. The State's written approval of any SubContractor engaged by Vendor to perform any obligation under this Contract shall not relieve Vendor of any obligations or performance required under this Contract. The Vendor shall specify in Article 1 a list of the SubContractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.
- (d) Except where specifically approved in writing by the State on a case-by-case basis, Vendor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any SubContractors.
- (e) The Vendor shall select SubContractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

#### **2.045 Vendor Responsibility for Personnel**

Vendor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Vendor to perform the Services.

#### **2.050 State Standards**

#### **2.051 Existing Technology Standards**

The Vendor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at [http://www.michigan.gov/dit/0,1607,7-139-30639\\_30655---,00.html](http://www.michigan.gov/dit/0,1607,7-139-30639_30655---,00.html).

#### **2.052 PM Methodology Standards - RESERVED**

#### **2.053 Adherence to Portal Technology Tools - RESERVED**

#### **2.054 Acceptable Use Policy**

To the extent that Vendor has access to the State computer system, Vendor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--00.html>. All Vendor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Vendor's access to the State system if a violation occurs.



## 2.060 Deliverables

### **2.061 Ordering**

- (a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

### **2.062 Software**

The Vendor shall list in Article 1 the items of software the State is required to purchase for execution the Contract. The list in Article 1 includes all software required to complete the Contract and make the Deliverables operable; if any additional software is required in order for the Deliverables to meet the requirements of this Contract, such software shall be provided to the State by Vendor at no additional charge (except where agreed upon and specified in a Statement of Work or Contract Change Notice). Article 1 also identifies certain items of software to be provided by the State.

### **2.063 Hardware**

**The Vendor shall list in Article 1** the items of hardware the State is required to purchase for execution the Contract. The list in Article 1 includes all hardware required to complete the Contract and make the Deliverables operable; if any additional hardware is required in order for the Deliverables to meet the requirements of this Contract, such hardware shall be provided to the State by Vendor at no additional charge (except where agreed upon and specified in a Contract Change Notice). Article 1 also identifies certain items of hardware to be provided by the State.

### **2.064 Equipment**

- (a) Equipment to be what is currently in the laboratory. Replacement may be new or used. If applicable, all equipment provided under this Contract by Vendor shall be new where Vendor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Vendor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.
- (b) 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 the Contract, shall be considered default by the Vendor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.106**.

## 2.070 Performance

### **2.071 Performance, In General**

The State engages Vendor to execute the Contract and perform the Services/provide the Deliverables, and Vendor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

**2.072 Time of Performance**

- (a) Vendor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.072(a)**, Vendor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.
- (c) If Vendor believes that a delay in performance by the State has caused or will cause Vendor to be unable to perform its obligations in accordance with specified Contract time periods, Vendor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Vendor will not be in default for a delay in performance to the extent such delay is caused by the State.

**2.073 Liquidated Damages - RESERVED****2.074 Bankruptcy**

If Vendor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Vendor and not removed within thirty (30) days, or if the Vendor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Vendor and/or its affiliates are unable to provide reasonable assurances that Vendor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Vendor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Vendor's obligations hereunder, and any work which Vendor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

**2.075 Time is of the Essence - RESERVED****2.076 Service Level Agreements (SLAs) - RESERVED****2.080 Delivery and Acceptance of Deliverables****2.081 Delivery Responsibilities**

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

- (a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Vendor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.
- (b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.
- (c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.



Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within fourteen (14) days of receipt. Any damage must be reported to the Vendor within five (5) days of inspection. If this inspection does not occur and damages not reported within thirty (30) days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

**2.082 Delivery of Deliverables - RESERVED**

**2.083 Testing**

All consumable goods are subject to inspection and testing. In the event consumable goods are defective in documentation, material or workmanship, or otherwise fail to meet the requirements of the Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Vendor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Vendor 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 Vendor fails to make arrangements within the specified time period.

**2.084 Approval of Deliverables, In General - RESERVED**

**2.085 Process for Approval of Written Deliverables - RESERVED**

**2.086 Process for Approval of Services**

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) Business Days for Services). The State agrees to notify Vendor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Vendor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Vendor a notice of deficiencies, Vendor will correct the described deficiencies and within thirty (30) Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. Vendor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Vendor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

**2.087 Process for Approval of Physical Deliverables - RESERVED**

**2.088 Final Acceptance**

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

**2.090 Financial**

**2.091 Pricing**

- (a) Fixed Prices for Services/Deliverables  
Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables.
- (b) Adjustments for Reductions in Scope of Services/Deliverables - RESERVED
- (c) Labor Rates - RESERVED

**2.092 Invoicing and Payment Procedures and Terms**

- (a) Invoicing and Payment – In General



- (i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and the associated payment milestones.
  - (ii) Each Vendor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Vendor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.
  - (iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.
- (b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)  
The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Vendor, if requested.
- (c) Out-of-Pocket Expenses  
Vendor acknowledges that the out-of-pocket expenses that Vendor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Vendor's fixed price for each Statement of Work. Accordingly, Vendor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Vendor for such an expense at the State's current travel reimbursement rates. See [http://www.mi.gov/dmb/0,1607,7-150-9141\\_13132---,00.html](http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html) for current rates(d) Pro-ration
- To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.
- (d) Antitrust Assignment  
The Vendor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Vendor, toward fulfillment of this Contract.
- (e) Final Payment  
The making of final payment by the State to Vendor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Vendor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Vendor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

### 2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Vendor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

**2.094 Holdback - RESERVED****2.095 Electronic Payment Availability**

Electronic transfer of funds is available to State Vendors. Vendors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. Public Act 533 of 2004, requires all payments be transitioned over to EFT by October, 2005.

**2.100 Contract Management****2.101 Contract Management Responsibility**

- (a) Vendor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Vendor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Vendor's own responsibilities) and providing timely notice to the State in Vendor's reasonable opinion if the State's failure to perform its responsibilities in accordance with **Article 1**, is likely to delay the timely achievement of any Contract tasks.
- (b) The Services/Deliverables will be provided by the Vendor either directly or through its affiliates, subsidiaries, SubContractors or resellers. Regardless of the entity providing the Service/Deliverable, the Vendor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

**2.102 Problem and Contract Management Procedures**

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

**2.103 Reports and Meetings - RESERVED****2.104 System Changes**

Vendor is not responsible for and not authorized to make changes to any State systems without written authorization from the State. Any changes Vendor makes to State systems with the State's approval shall be done in accordance with applicable State procedures, including security, access and configuration management procedures.

**2.105 Reserved**



## 2.106 Change Requests

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Vendor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Vendor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the State requests or directs the Vendor to perform any Services/Deliverables that are outside the scope of the Vendor's responsibilities under the Contract ("New Work"), the Vendor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Vendor fails to notify the State before commencing performance of the requested activities, any such activities performed before notice is given by the Vendor shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Vendor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Vendor under the Contract, but which the Vendor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Vendor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Vendor should receive additional compensation. If the Vendor does not so notify the State, the Vendor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Vendor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

- (a) Change Requests
  - (i) State Requests

If the State should require Vendor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Vendor (a "Change"), the State shall submit a written request for Vendor to furnish a proposal for carrying out the requested Change (a "Change Request").
  - (ii) Vendor Recommendations

Vendor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.
  - (iii) Upon receipt of a Change Request or on its own initiative, Vendor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Vendor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Vendor provides a written proposal and should Vendor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.
  - (iv) By giving Vendor written notice within a reasonable time, the State shall be entitled to accept a Vendor proposal for Change, to reject it or to reach another agreement with Vendor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
  - (v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Purchasing Operations.



- (vi) If the State requests or directs Vendor to perform any activities that Vendor believes constitute a Change, Vendor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Vendor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Vendor, and Vendor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Vendor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Vendor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

## 2.107 Management Tools - RESERVED

### 2.110 Records and Inspections

#### 2.111 Records and Inspections

The Vendor agrees that the State may, upon 72-hour notice, perform an audit at Vendor's location(s) to determine if the Vendor is complying with the requirements of the Contract. The Vendor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

#### 2.112 Errors

- (a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the Contract, whichever is earlier.
- (b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Vendor shall pay all of the reasonable costs of the audit.

### 2.120 State Responsibilities

#### 2.121 State Performance Obligations

- (a) **Equipment and Other Resources.** To facilitate Vendor's performance of the Services/Deliverables, the State shall provide to Vendor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.
- (b) **Facilities.** The State shall designate space as long as it is available and as provided in the Statement of Work, to house Vendor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Vendor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by Vendor in the course of providing the Services. Vendor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for Vendor's use, or to which Vendor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.
- (c) **Return.** Vendor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.



- (d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Vendor. However, Vendor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Vendor provides the State with reasonable written notice of such nonperformance and Vendor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Vendor's performance or Vendor's cost of performance, Vendor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

### 2.130 Security

#### **2.131 Background Checks**

The Vendor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case by case basis. The scope of the background check is at the discretion of the State and the results will be used to determine Vendor personnel eligibility for working within State facilities and systems. Such investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Vendor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Vendor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. Furthermore, Vendor personnel will be expected to agree to the State's security and acceptable use policies before the Vendor personnel will be accepted as a resource to perform work for the State. It is expected the Vendor will present these documents to the prospective employee before the Vendor presents the individual to the State as a proposed resource. Vendor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

### 2.140 Reserved

### 2.150 Confidentiality

#### **2.151 Freedom of Information**

All information in any proposal submitted to the State by Vendor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

#### **2.152 Confidentiality**

Vendor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Vendor shall mean all non-public proprietary information of Vendor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Vendor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Vendor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

**2.153 Protection of Confidential Information**

The State and Vendor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Vendor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will limit disclosure of the other party's Confidential Information to employees and SubContractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a SubContractor is permissible where (A) use of a SubContractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such SubContractor's scope of responsibility, and (C) Vendor obligates the SubContractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Vendor and of any SubContractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Vendor's and the SubContractor's obligations under this Section and of the employee's obligation to Vendor or SubContractor, as the case may be, to protect such Confidential Information from unauthorized use or disclosure.

**2.154 Exclusions**

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Vendor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of such disclosure as reasonably requested by the furnishing party.

**2.155 No Implied Rights**

Nothing contained in this Section shall be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

**2.156 Remedies**

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

**2.157 Security Breach Notification**

In the event of a breach of this Section, Vendor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Vendor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Vendor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

**2.158 Survival**

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

**2.159 Destruction of Confidential Information**

Promptly upon termination or cancellation of the Contract for any reason, Vendor shall certify to the State that Vendor has destroyed all State Confidential Information.

**2.160 Proprietary Rights****2.161c License - RESERVED****2.162 Source Code - RESERVED****2.163 Rights in Data**

- (a) The State will be and remain the owner of all data made available by the State to Vendor or its agents, SubContractors or representatives pursuant to the Contract. Vendor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Vendor, nor will any employee of Vendor other than those on a strictly need to know basis have access to the State's data. Vendor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Vendor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Vendor shall comply at all times with all laws and regulations applicable to such personally identifiable information.
- (b) The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Vendor for any purpose. The State will not possess or assert any lien or other right against the Vendor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable information. Other material developed and provided to the State shall remain the State's sole and exclusive property.

**2.164 Ownership of Materials**

State and Vendor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Vendor by the State, and paid for by the State, will be owned by the State. Any software licensed through the Vendor and sold to the State, will be licensed directly to the State.

**2.165 Standard Software**

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State shall be listed in Article 1.

**2.166 Pre-existing Materials for Custom Software Deliverables - RESERVED****2.167 General Skills**

Notwithstanding anything to the contrary in this Section, each party, its SubContractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills



gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.

## 2.170 Warranties And Representations

### **2.171 Warranties and Representations**

The Vendor represents and warrants:

- (a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Vendor or developed by Vendor under this Contract, and Vendor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables.
- (d) If, under this Contract, Vendor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Vendor under Vendor's name), then in addition to Vendor's other responsibilities with respect to such items in this Contract, Vendor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Vendor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Vendor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Vendor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Vendor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
- (h) Neither Vendor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Vendor or Affiliates or employee on behalf of the State would be influenced. Vendor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Vendor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Vendor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Vendor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Vendor to any other bidder; and no attempt was made by Vendor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Vendor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and



accurately represent the business, properties, financial condition, and results of operations of Vendor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Vendor.

- (l) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Vendor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Vendor failed to perform or otherwise breached an obligation of such contract.

## 2.172 Software Warranties

(a) Performance Warranty

The Vendor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for the duration of the Contract, including Contract extensions. In the event of a breach of this warranty, Vendor will promptly correct the affected Deliverable(s) at no charge to the State.

(b) No Surreptitious Code Warranty

The Vendor represents and warrants that no copy of licensed Software provided to the State contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

In addition, Vendor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

(c) Calendar Warranty

The Vendor represents and warrants that all software for which the Vendor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and



hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

(d) Third-party Software Warranty

The Vendor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Vendor shall provide in writing the name and use of any Third-party Software, including information regarding the Vendor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Vendor to use the Third-party Software.

### 2.173 Equipment Warranty

To the extent Vendor is responsible under this Contract for maintaining equipment/system(s), Vendor 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 Vendor 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 the duration of the Contract period, including Contract extensions, commencing upon the first day following Final Acceptance.

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

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

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

The Vendor shall act as the sole point of contact for warranty service. The Vendor 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.

Warranty work may take place off-site if the Bidder pays for all shipping charges.

### 2.174 Physical Media Warranty

(a) Vendor represents and warrants that each licensed copy of the Software provided by the Vendor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty (30) days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Vendor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Vendor, at Vendor's expense (including shipping and handling).

### 2.175 Standard Warranties

(a) Warranty of Merchantability

Deliverables shall be merchantable. All Deliverables 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 on the container or label.

- (b) **Warranty of fitness for a particular purpose**  
When Vendor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Vendor's skill or judgment to select or furnish suitable Deliverables, the Vendor warrants that the Deliverables are fit for such purpose.
- (c) **Warranty of title**  
Vendor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Vendor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

## 2.176 Consequences for Breach

In addition to any remedies available in law, if the Vendor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

## 2.180 Insurance

### 2.181 Liability Insurance

- (a) **Liability Insurance**

The Vendor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Vendor's performance of services under the terms of this Contract, whether such services are performed by the Vendor, or by any SubContractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Vendor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Vendor is required to maintain pursuant to this Contract.

All insurance coverages provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Vendor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See [http://www.mi.gov/cis/0,1607,7-154-10555\\_22535---,00.html](http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html).

Where specific limits are shown, they are the minimum acceptable limits. If Vendor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Vendor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been



given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

The Vendor is required to pay for and provide the type and amount of insurance checked  below:

1. Commercial General Liability with the following minimum coverage:

\$2,000,000 General Aggregate Limit other than Products/Completed Operations  
 \$2,000,000 Products/Completed Operations Aggregate Limit  
 \$1,000,000 Personal & Advertising Injury Limit  
 \$1,000,000 Each Occurrence Limit  
 \$500,000 Fire Damage Limit (any one fire)

The Vendor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Vendor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

2. If a motor vehicle is used to provide services or products under this Contract, the Vendor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Vendor's business for bodily injury and property damage as required by law.

The Vendor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Vendor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Vendor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Vendor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Vendor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

4. Employers liability insurance with the following minimum limits:

\$100,000 each accident  
 \$100,000 each employee by disease  
 \$500,000 aggregate disease

5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Vendor or its SubContractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).

- (b) SubContractors

Except where the State has approved in writing a Vendor subcontract with other insurance provisions, Vendor shall require all of its SubContractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Vendor in connection with the performance of work by those SubContractors. Alternatively, Vendor may include any SubContractors under Vendor's insurance on the coverage required in this Section.



SubContractor(s) shall fully comply with the insurance coverage required in this Section. Failure of SubContractor(s) to comply with insurance requirements does not limit Vendor's liability or responsibility.

- (c) **Certificates of Insurance and Other Requirements**  
Vendor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Vendor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Vendor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed; to limit any liability or indemnity of Vendor under this Contract to any indemnified party or other persons. Vendor shall be responsible for all deductibles with regard to such insurance. If Vendor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Vendor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Vendor, or Vendor shall pay the entire cost (or any part thereof) upon demand by the State.

## 2.190 Indemnification

### **2.191 Indemnification**

- (a) **General Indemnification**  
To the extent permitted by law, the Vendor shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Vendor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Vendor or any of its SubContractors, or by anyone else for whose acts any of them may be liable.
- (b) **Code Indemnification**  
To the extent permitted by law, the Vendor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Vendor's breach of the No Surreptitious Code Warranty.
- (c) **Employee Indemnification**  
In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Vendor or any of its SubContractors, 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 Vendor or any of its SubContractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, 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 provisions.
- (d) **Patent/Copyright Infringement Indemnification**  
To the extent permitted by law, the Vendor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and



expenses (including reasonable attorneys' fees 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 Vendor or its SubContractors, 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 patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Vendor's opinion be likely to become the subject of a claim of infringement, the Vendor shall at the Vendor'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 Vendor, (ii) replace or modify to the State's satisfaction 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 Vendor, (iii) accept its return by the State with appropriate credits to the State against the Vendor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Vendor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Vendor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Vendor under this Contract.

#### **2.192 Continuation of Indemnification Obligations**

The Vendor's duty to indemnify pursuant to this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

#### **2.193 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 Vendor of such claim in writing and take or assist Vendor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Vendor. No failure to notify Vendor shall relieve Vendor of its indemnification obligations except to the extent that Vendor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Vendor shall notify the State in writing whether Vendor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Vendor of a claim and prior to the State receiving Vendor's Notice of Election, the State shall be entitled to defend against the claim, at Vendor's expense, and Vendor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.
- (b) If Vendor 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) Vendor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Vendor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Vendor 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 governmental 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 governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Vendor given within ten (10) days after the State's receipt of Vendor's information requested by the State pursuant to



clause (ii) of this paragraph if the State determines that Vendor has failed to demonstrate to the reasonable satisfaction of the State Vendor'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 Vendor 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 Vendor. If it is determined that the claim was one against which Vendor was required to indemnify the State, upon request of the State, Vendor shall promptly reimburse the State for all such reasonable costs and expenses.

## 2.200 Limits of Liability and Excusable Failure

### **2.201 Limits of Liability**

The Vendor's liability for damages to the State shall be limited to two times the value of the Contract or \$200,000 which ever is higher. The foregoing limitation of liability 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 Vendor; to claims covered by other specific provisions of this Contract calling for liquidated damages; 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 Vendor shall be limited to the value of the Contract.

Neither the Vendor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Vendor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

### **2.202 Excusable Failure**

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; 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 SubContractors 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 commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation. If any of the above-enumerated circumstances substantially prevent, hinder, or delay Vendor's performance of the Services/provision of Deliverables for more than ten (10) Business 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/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in



performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Vendor as of a date specified by the State in a written notice of termination to Vendor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

Vendor 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/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Vendor which are caused by acts or omissions of its SubContractors will not relieve Vendor of its obligations under the Contract except to the extent that a SubContractor is itself subject to an Excusable Failure condition described above and Vendor cannot reasonably circumvent the effect of the SubContractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

### **2.203 Disaster Recovery**

Vendor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Vendor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

#### 2.210 Termination/Cancellation by the State

The State may terminate 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:

### **2.211 Termination for Cause**

- (a) In the event that Vendor 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 (such time period not to be less than thirty (30) days), 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 termination to Vendor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.
- (b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Vendor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.
- (c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.
- (d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Vendor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination 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 termination for convenience.

### **2.212 Termination for Convenience**

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole



discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Vendor written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

### **2.213 Non-Appropriation**

- (a) Vendor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Vendor. The State shall give Vendor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Vendor for the agreed-to level of the Services or production of Deliverables to be provided by Vendor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Vendor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.
- (c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Vendor pursuant to this Section, the State shall pay Vendor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Vendor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

### **2.214 Criminal Conviction**

The State may terminate this Contract immediately and without further liability or penalty in the event Vendor, an officer of Vendor, or an owner of a 25% or greater share of Vendor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including 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 Vendor's business integrity.

### **2.215 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, § 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Vendor or may be effective as of the date stated in such written notice.

### **2.216 Rights and Obligations Upon Termination**

- (a) If this Contract is terminated by the State for any reason, Vendor 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 Vendor's possession, (c) return all materials and property



- provided directly or indirectly to Vendor by any entity, agent or employee of the State, (d) in the event that the Vendor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Vendor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the 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 Vendor 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 Vendor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.
- (b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Vendor 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 Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Vendor pursuant to this Contract shall, at the option of the State, become the State's property, and Vendor 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, Vendor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (c) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

#### **2.217 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.

#### **2.218 Vendor Transition Responsibilities**

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Vendor 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 Vendor 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 six (6) months. These efforts shall include, but are not limited to, the following:

- (a) Personnel - The Vendor 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 Vendor 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 Vendor's SubContractors or vendors, as necessary to meet its needs, Vendor agrees to reasonably, and with good-faith, work with the State to use the Services of Vendor's SubContractors or vendors. Vendor will notify all of Vendor's SubContractors of procedures to be followed during transition.
- (b) Information - The Vendor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Vendor will provide the State with asset management data generated from the inception of this Contract through the date on which this Vendor is terminated in a comma-delineated format unless otherwise requested by the State. The Vendor will deliver to the State any remaining owed reports and documentation still in Vendor's possession subject to appropriate payment by the State.
- (d) Software. - The Vendor shall reasonably assist the State in the acquisition of any Vendor software required to perform the Services/use the Deliverables under this Contract. This shall



include any documentation being used by the Vendor to perform the Services under this Contract. If the State transfers any software licenses to the Vendor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Vendor may be required to freeze all non-critical changes to Deliverables/Services.

- (e) 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 Vendor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates specified in **Article 1**. The Vendor will prepare an accurate accounting from which the State and Vendor may reconcile all outstanding accounts.

#### **2.219 State Transition Responsibilities**

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 Vendor agree:

- (a) Reconciling all accounts between the State and the Vendor;  
(b) Completing any pending post-project reviews.

#### **2.220 Termination by Vendor**

##### **2.221 Termination by Vendor**

If the State materially breaches its obligation to pay Vendor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Vendor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Vendor (such time period not to be less than thirty (30) days), then Vendor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Vendor must discharge its obligations under **Section 2.250** before any such termination.

#### **2.230 Stop Work**

##### **2.231 Stop Work Orders**

The State may, at any time, by written stop work order to Vendor, require that Vendor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Vendor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

##### **2.232 Cancellation or Expiration of Stop Work Order**

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Vendor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Vendor's costs properly allocable to, the performance of any part of the Contract; and (b) Vendor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Vendor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

##### **2.233 Allowance of Vendor Costs**



If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Vendor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 Reserved

2.250 Dispute Resolution

**2.251 In General**

Any claim, counterclaim, or dispute between the State and Vendor arising out of or relating to the Contract or any Statement of Work shall be resolved as follows. For all Vendor claims seeking an increase in the amounts payable to Vendor under the Contract, or the time for Vendor's performance, Vendor shall submit a letter executed by Vendor's Contract Administrator or his designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Vendor or the time for Vendor's performance for which Vendor believes the State is liable and covers all costs of every type to which Vendor is entitled from the occurrence of the claimed event, and (c) the supporting data provided with such an affidavit are current and complete to Vendor's best knowledge and belief.

**2.252 Informal Dispute Resolution**

- (a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
- (i) The representatives of Vendor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
  - (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
  - (iii) The specific format for the discussions will be left to the discretion of the designated State and Vendor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
  - (iv) Following the completion of this process within sixty (60) calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.
- (b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.
- (c) The State will not mediate disputes between the Vendor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

**2.253 Injunctive Relief**

The only circumstance in which disputes between the State and Vendor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be



so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

#### **2.254 Continued Performance**

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

#### 2.260 Federal and State Contract Requirements

#### **2.261 Nondiscrimination**

In the performance of the Contract, Vendor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Vendor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each SubContractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and any breach of this provision may be regarded as a material breach of the Contract.

#### **2.262 Unfair Labor Practices**

Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Vendor of the State, in relation to the Contract, shall not enter into a contract with a SubContractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Vendor as an employer or the name of the SubContractor, manufacturer or supplier of Vendor appears in the register.

#### **2.263 Workplace Safety and Discriminatory Harassment**

In performing Services for the State, the Vendor shall comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Vendor shall comply with Civil Service regulations and any applicable agency rules provided to the Vendor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.

#### 2.270 Litigation

#### **2.271 Disclosure of Litigation**

- (a) Disclosure. Vendor must disclose any material criminal litigation, investigations or proceedings involving the Vendor (and each SubContractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Vendor (and each SubContractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Vendor (or, to the extent Vendor is aware, any SubContractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Vendor or any SubContractor hereunder; or (ii) a claim or written allegation of fraud against Vendor or, to the extent Vendor is aware, any SubContractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation,



investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Vendor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

- (b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:
- (i) the ability of Vendor (or a SubContractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
  - (ii) whether Vendor (or a SubContractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Vendor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:
    - (A) Vendor and/or its SubContractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and
    - (B) Vendor and/or its SubContractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.
- (c) Vendor shall make the following notifications in writing:
- (1) Within thirty (30) days of Vendor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Vendor shall notify the Office of Purchasing Operations.
  - (2) Vendor shall also notify the Office of Purchasing Operations within thirty (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.
  - (3) Vendor shall also notify Purchasing Operations within thirty (30) days whenever changes to company affiliations occur.

#### **2.272 Governing Law**

The Contract shall in all respects be governed by, and construed in accordance with, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

#### **2.273 Compliance with Laws**

Vendor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.

#### **2.274 Jurisdiction**

Any dispute arising from the Contract shall be resolved in the State of Michigan. With respect to any claim between the parties, Vendor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non convenience or otherwise. Vendor agrees to appoint agents in the State of Michigan to receive service of process.

#### **2.280 Environmental Provision**

#### **2.281 Environmental Provision**

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil,



etc., and any other material the manufacture, use, treatment, storage, transportation or disposal of which is regulated by the federal, state or local laws governing the protection of the public health, natural resources or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.

- (a) The Vendor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Vendor's Work. Prior to the commencement of Work, the State shall advise Vendor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Vendor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Vendor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.
- (b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Vendor, or does not result in whole or in part from any violation by the Vendor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.
- (c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Vendor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.
- (d) If the Hazardous Material was brought to the site by the Vendor, or results in whole or in part from any violation by the Vendor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Vendor, the Vendor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Vendor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

## 2.290 **General**

### **2.291 Amendments**

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

### **2.292 Assignment**

- (a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Vendor and Vendor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the



Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

- (b) Vendor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Vendor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

#### **2.293 Entire Contract; Order of Precedence**

- (a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.
- (b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

#### **2.294 Headings**

Captions and headings used in the 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 the Contract.

#### **2.295 Relationship of the Parties (Independent Vendor Relationship)**

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

#### **2.296 Notices**

- (a) Any notice given to a party under the Contract 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.

Lisa Morrison  
State of Michigan  
DMB - Purchasing  
PO Box 30026  
530 West Allegan  
Lansing, Michigan 48909

Either party may change its address where notices are to be sent by giving notice in accordance with this Section.

- (b) **Binding Commitments**  
Representatives of Vendor identified in Article 1 shall have the authority to make binding commitments on Vendor's behalf within the bounds set forth in such table. Vendor may change such representatives from time to time upon written notice.

**2.297 Media Releases and Contract Distribution****(a) Media Releases**

Neither Vendor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Vendor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Vendor must be obtained from authorized representatives.

**(b) Contract Distribution**

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

**2.298 Reformation and Severability**

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

**2.299 Consents and Approvals**

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

**2.300 No Waiver of Default**

The failure of a party to insist upon strict adherence to any term of the 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 the Contract.

**2.301 Survival**

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

**2.302 Covenant of Good Faith**

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

**2.303 Permits**

Vendor shall obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

**2.304 Website Incorporation**

State expressly states that it will not be bound by any content on the Vendor's website, even if the Vendor'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.

**2.305 Taxes**

Bidders are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Bidder who has failed to pay any applicable State taxes. The State may refuse to accept Bidder's bid, if Bidder has any outstanding debt with the State. Prior to any award, the State will verify whether Bidder has any outstanding debt with the State.

**2.306 Prevailing Wage - RESERVED****2.307 Call Center Disclosure**

Vendor call or contact center services to the State.

Technical support is available between 8 AM and 5 PM Eastern Standard Time 1-800-762-4000.  
Ordering support is available between 8 AM and 6 PM Eastern Standard Time 1-800-321-9632.

**2.308 Future Bidding Preclusion**

Vendor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP; it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the Bidder has used its position (whether as an incumbent Vendor, or as a Vendor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a leading edge on the competitive RFP.

[2.310 Reserved](#)

[2.320 Extended Purchasing](#)

**2.321 MiDEAL – RESERVED****2.322 State Employee Purchases - RESERVED**

[2.330 Federal Grant Requirements](#)

**2.331 Federal Grant Requirements - RESERVED**



ATTACHMENT A  
Pricing

Material	Description	Quantity	Unit Price	Extended Price
B005-112	AutoDELFLIA Neonatal IRT kit, Whatman 903	168	1378.39	231,569.52
1235-402	EPPENDORF PIPETTE TIPS	24	195	4,680.00
1235-411	NEW DILUTION VESSELS (100/PKG)	24	41	984
5516	NONSTERILE PIPET TIPS FOR NC-5000 20 RAC	7	225	1,575.00
B032-312	AutoDELFLIA Neonatal hTSH kit,Whatman 903	168	1106	185,808.00
B015-112	AutoDELFLIA Neonatal 17a-OH-progesterone AUTODELFIA WASH CONCENTRATE(250ML)8	168	1045	175,560.00
B117-100	BOTT	40	221	8,840.00
B118-100	AUTODELFIA ENH.SOL. (250ML) BOTTLES	40	675	27,000.00
FR-9360	Neonatal Hemoglobin kit (3600 tests)	6	1685	10,110.00
FR-9367	JB2 STAINING SYSTEM	6	91	546
FR-9436	Sample Application Template, 10/pkg	6	35	210
L 1.75 X .5	1-3/4 X 1/2IN LABEL BLANK 1 ROLL =10,000	1	47.25	47.25
L VICBARPLATE	LABEL FOR VICTOR PLATE BARCODE, 2.323IN	1	47.25	47.25
NC-2125	MICROPLATE, WHITE, FLAT BOTTOM 25/PK	1	85	85
NC-2225	MICROPLATE, BLACK, FLAT BOTTOM 25/PK	1	85	85
3033-0010	DBS Microplate, trunc. V bottomed PK 100	30	150	4,500.00
NC-5004G	BLOTTING PAPER TOWELS FOR ISOTEK 50 PER	250	30	7,500.00
NG-1100	Neonatal GALT Kit (960 tests)	220	575	126,500.00
NG-4100	Neonatal GALT Kit (4800 tests)	1	2550	2,550.00
R BAR4 RIBBON	4" BLACK WAX BAR CODE RIBBON	1	73.5	73.5
3026-0010	Neogram Amino Acids and Acylcarnitines	112	11379.88	1,274,546.56
GL2707273	INJECTION PORT SEAL- PK.OF 5 =1 PC.	30	91.8	2,754.00
GL499410522	CALIBRATED TUBING, PEEK, 52 X 1.6 X 0.25	60	44	2,640.00
GL49601039	ROTOR SEAL FOR RHEODYNE 7010 VALVE	40	218.28	8,731.20
GL2507252	MICRO SEPTA PROBE 125MM	8	242	1,936.00
9903610	SOL RESERVOIR SPARGER 10 MCRN	16	111.63	1,786.08
SX016325	FITTING PEEK 10/32 X 1/16"	4	11.2	44.8
SX019674	FERRULE* 1/16" VALCON TPH	4	10	40
SX016316	PEEK TUBING, 1/16 OD X .005 ID PEEK RED,	35	36	1,260.00
SX016485	PEEK TUBING, .0025 ID, EA = (5Ft length)	40	7.2	288
SX018782	METAL ELECTRODE TUBING	35	42.48	1,486.80
SX018786	UNION FITTING (0.15MM BORE)	2	70.34	140.68
18301	HAMILTON CLEANING WIRE W/PIN (0.00497" D	1	19.2	19.2
SX011281	TOOL, TUBE CUTTER, PEAK	1	13	13
SX012627	FITTING, RHEFLEX 1/16	10	11.26	112.6
SX012637	FERRULE, RHEFLEX 1/16	6	3.82	22.92
GL49601040	STATOR FOR RHEODYNE 7010/7125 VALVE	2	724.2	1,448.40
SX014629	SWABS	300	1	300
SX019670	TOOL, SWAB, ANTI-STATIC FOAM, WIDE	300	1	300
SX010615	SYRINGE, GAS TIGHT, 1.0 ML	2	128	256
SX011556	TUBE, TEFLON 1/32"ID X 1/16"OD, PK/152	4	9	36
SX015968	FITTING, UNION 1/16, .010 ORIF	15	83	1,245.00
GL25025342	250 UL GILSON SYRINGE, 215	8	414	3,312.00
SX010616	NEEDLE, SYRINGE, LUER HUB, 2'	2	18	36
Total per year				2,091,025.76
Total Cost for 3 year Contract				6,273,077.28