Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

May 21, 2013

CHANGE NOTICE NO. 7
to
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Wolverine Packing Company	Jim Kimble	jkimble@wolverinepacking.com
2535 Rivard	TELEPHONE	CONTRACTOR #, MAIL CODE
Detroit, MI 48207	(313) 259-7500 (734) 634-8683 Cell Ph	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DOC	Lisa Lehnert	(517) 335-4904	lehnertl@michigan.gov
BUYER	DTMB	Sue Cieciwa	(517) 373-0301	cieciwas@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION: **Fresh Beef Products – DOC/MSI**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 1, 2007	June 1, 2010	Two One-Year Options	June 30, 2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 7 Days	Delivered	3 – 7 Days ARO	N/A

ALTERNATE PAYMENT OPTIONS:	AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card ☐ Direct Voucher (DV) ☐ Other	☐ Yes ☒ No

MINIMUM DELIVERY REQUIREMENTS:
12,000 pounds

DESCRIPTION OF CHANGE NOTICE:

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
☐ No ☒ Yes	☐	☒	Six (6) Months	December 31, 2013

VALUE/COST OF CHANGE NOTICE:	ESTIMATED REVISED AGGREGATE CONTRACT VALUE:
$0.00	$2,533,333.00

Effective May 21, 2013 this Contract is hereby extended six months to December 31, 2013. In addition, the vendor contact information is changed as follows:

Jim Kimble
Phone: (313) 259-7500
Cell Ph: (734) 634-8683

All other terms, conditions, specifications, and pricing remain unchanged. Per agency request dated March 12, 2013, DTMB, Procurement request dated April 9, 2013, vendor agreement by email dated April 9, 2013, and State Administrative Board approval on May 21, 2013.

Form No. DTMB-3521 (Rev. 4/2012)

AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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. 6

to

CONTRACT NO. 071B7200295

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Wolverine Packing Company	Ben Smith	bensmith@wolverinepacking.com
2535 Rivard	TELEPHONE	CONTRACTOR #, MAIL CODE
Detroit, MI 48207	(800) 521-1390	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DOC	Lisa Lehnert	(517) 335-4904	lehnertl@michigan.gov
BUYER	DTMB	Sue Cieciwa	(517) 373-0301	cieciwas@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION: **Fresh Beef Products – DOC/MSI**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 1, 2007	June 1, 2010	Two One-Year Options	December 31, 2012
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 7 Days	Delivered	3 – 7 Days ARO	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ Yes ☒ No
MINIMUM DELIVERY REQUIREMENTS:			
12,000 pounds			

DESCRIPTION OF CHANGE NOTICE:

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
☐ No ☒ Yes	☐	☒	Six (6) Months	June 30, 2013

VALUE/COST OF CHANGE NOTICE:	ESTIMATED REVISED AGGREGATE CONTRACT VALUE:
$400,000.00	$2,533,333.00

This Contract is hereby extended six months from December 31, 2012 to June 30, 2013. In addition, this Contract is hereby INCREASED by $400,000.00. All other terms, conditions, specifications, and pricing remain unchanged.

Per agency request dated October 15, 2012, DTMB, Procurement request dated November 7, 2012, vendor agreement by email dated November 7, 2012, and State Administrative Board approval on December 4, 2012.

Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

June 19, 2012

CHANGE NOTICE NO. 5

to

CONTRACT NO. 071B7200295

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Wolverine Packing Company	**Ben Smith**	bensmith@wolverinepacking.com
2535 Rivard	TELEPHONE	CONTRACTOR #, MAIL CODE
Detroit, MI 48207	**(800) 521-1390**	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	**DOC**	**Lisa Lehnert**	**(517) 335-4904**	lehnertl@michigan.gov
BUYER:	**DTMB**	**Sue Cieciwa**	**(517) 373-0301**	cieciwas@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: **Fresh Beef Products – DOC/MSI**			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
June 1, 2007	**June 1, 2010**	**Two One-Year Options**	**June 1, 2012**
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 7 Days	**Delivered**	**3 – 7 Days ARO**	**N/A**
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ YES ☒ NO
MINIMUM DELIVERY REQUIREMENTS:			
12,000 pounds			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: ☒ NO ☐ YES	IF YES, EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE: **December 31, 2012**
This Contract is hereby extended from June 1, 2012 to December 31, 2012. All other terms, conditions, specifications, and pricing remain unchanged. **Per agency request dated May 29, 2012, DTMB, Procurement request dated May 31, 2012, vendor agreement by email dated May 31, 2012, and State Administrative Board approval on June 19, 2012.**		
VALUE/COST OF CHANGE NOTICE:	**$0.00**	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	**$2,133,333.00**	

Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice may be considered in default of Contract

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **February 16, 2012**
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email:bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-0301 **Sue Cieciwa**
CONTRACT COMPLIANCE INSPECTOR: Lisa Lehnert **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007** To: **June 1, 2012**	
TERMS **Net 7 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
ALTERNATE PAYMENT OPTIONS: ☐ P-card ☐ Direct Voucher (DV) ☐ Other	
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE(S):

Effective immediately, the buyer for this is hereby CHANGED to Sue Cieciwa.

All other terms, conditions, and pricing remain unchanged.

AUTHORITY/REASON:

Per DTMB Procurement.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $2,133,333.00

Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice may be considered in default of Contract

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **February 24, 2011**
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email:bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-0920 **Brenda Sprunger**
CONTRACT COMPLIANCE INSPECTOR: Lisa Lehnert **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007** To: **June 1, 2012**	
TERMS **Net 7 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
ALTERNATE PAYMENT OPTIONS: ☐ P-card ☐ Direct Voucher (DV) ☐ Other	
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE(S):

Effective February 24, 2011 the State of Michigan exercises the second contract option year available on this contract in accordance with Section 2.004 Contract Term therefore the new contract expiration date is now June 1, 2012.

In addition the buyer is hereby changed to Brenda Sprunger.

All other terms, conditions, and pricing remain unchanged.

AUTHORITY/REASON:

Per agency request by PRF dated February 23, 2011, vendor agreement by email dated February 24, 2011 and DTMB approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $2,133,333.00

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

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

March 16, 2010

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email: bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 **Joan Bosheff**
Contract Compliance Inspector: Lisa Lehnert **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007** To: **June 1, 2011**	
TERMS **Net 7 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE(S):

Effective immediately the State of Michigan hereby exercises the first Contract Option year making the new Contract end dated June 1, 2011. In addition the Contract Compliance inspector is hereby changed to Lisa Lehnert.

AUTHORITY/REASON(S):

Per Agency request by PRF dated March 2, 2010 and DMB Purchasing Operations.

ESTIMATED CONTRACT VALUE REMAINS: $2,133,333.00

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

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

March 17, 2009

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email: bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 **Joan Bosheff**
Contract Compliance Inspector: Nancy Taylor-Williams **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007** To: **June 1, 2010**	
TERMS **Net 7 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE(S):

Effective immediately, the payment terms for this contract are changed to "Net 7 days." All other terms and conditions remain the same.

AUTHORITY/REASON(S):

Per DMB Purchasing Operations.

Estimated Contract Value Remains: $2,133,333.00

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

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

August 8, 2007

NOTICE
OF
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email: bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 **Joan Bosheff**
Contract Compliance Inspector: Nancy Taylor-Williams **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007**	To: **June 1, 2010**
TERMS **Net 30 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

Attached are the terms and conditions of this Contract. 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: $2,133,333.00

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

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

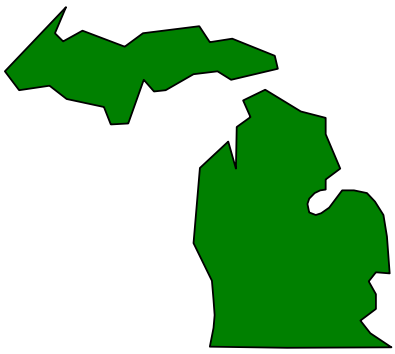
CONTRACT NO. 071B7200295
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Wolverine Packing Company** **2535 Rivard** **Detroit, MI 48207** **Email: bensmith@wolverinepacking.com**	TELEPHONE: Ben Smith **(800) 521-1390** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 **Joan Bosheff**
Contract Compliance Inspector: Nancy Taylor-Williams **Fresh Beef Products – DOC/MSI**	
CONTRACT PERIOD: From: **June 1, 2007**	To: **June 1, 2010**
TERMS **Net 30 Days**	SHIPMENT **3 – 7 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION: **The terms and conditions of this Contract. 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: $2,133,333.00**	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our Orders for delivery will be issued directly by the Department of Corrections through the issuance of a Purchase Order Form.

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

FOR THE VENDOR:	**FOR THE STATE:**
Wolverine Packing Company Firm Name	Signature
Authorized Agent Signature	**Jeffrey A. White, Buyer Manager** Name/Title
Authorized Agent (Print or Type)	**Commodities Division, Purchasing Operations** Division
Date	Date



STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations

Contract #071B7200295
Fresh Beef Products

Buyer Name: Joan Bosheff
Telephone Number: (517) 373-7374
E-Mail Address: bosheffj@michigan.gov

TABLE OF CONTENTS

Article1 – Statement of Work (SOW) 1
1.0 Introduction **1**
1.001 PROJECT TITLE AND DESCRIPTION 1
1.002 PROJECT CONTROL 1
1.1 Product Quality **1**
1.101 SPECIFICATIONS 1
1.102 PRODUCT TESTING AND QUALITY CONTROL 1
1.103 PRODUCT QUALITY 2
1.104 DEFECTIVE PRODUCT 2
1.2 Service Capabilities **2**
1.201 CUSTOMER SERVICE/ORDERING 2
1.203 TRAINING 3
1.204 REPORTING 3
1.205 SECURITY 3
1.3 Delivery Capabilities **3**
1.301 TIME FRAMES 3
1.302 MINIMUM ORDER 4
1.303 PACKAGING 4
1.304 PALLETIZING 4
1.305 DELIVERY TERM 4
1.306 DELIVERY TEMPERATURE 4
1.307 CARRIER REQUIREMENTS 5
1.4 Project Bidding/Pricing/Invoicing/Payments **5**
1.401 Bidding Process 5
1.402 PRICING 5
1.403 INVOICING AND PAYMENTS 5
1.5 Quantity Term **5**
1.6 Other Terms and Conditions Needed for this Contract **5**
1.601 SPOT BUYS 5
1.602 FACILITIES/PRODUCTION/WAREHOUSING/DISTRIBUTION 6
1.603 HAZARD ANALYSIS CRITICAL POINT (HACCP) PROGRAM 6
1.604 RECALL PROGRAM 6
1.605 SANITATION INSPECTION/PEST CONTROL 6
1.606 NUTRITIONAL INFORMATION 6
1.607 SAMPLES DURING CONTRACT TERM 6
1.608 PRODUCT AVAILABILITY 6
Article 2 – General Terms and Conditions 7
2.0 Introduction **7**
2.001 GENERAL PURPOSE 7
2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR 7
2.003 NOTICE 7
2.004 CONTRACT TERM 7
2.005 GOVERNING LAW 8
2.006 APPLICABLE STATUTES 8
2.007 RELATIONSHIP OF THE PARTIES 8
2.008 HEADINGS 9
2.009 MERGER 9
2.010 SEVERABILITY 9
2.011 SURVIVORSHIP 9
2.012 NO WAIVER OF DEFAULT 9
2.013 PURCHASE ORDERS 9
2.1 Contractor/Contractor Obligations **9**
2.101 ACCOUNTING RECORDS 9
2.102 NOTIFICATION OF OWNERSHIP 9
2.103 RESERVED 10
2.104 RESERVED 10
2.105 RESERVED 10
2.106 PREVAILING WAGE 10

2.107 PAYROLL AND BASIC RECORDS 10
2.108 COMPETITION IN SUBCONTRACTING 11
2.109 CALL CENTER DISCLOSURE 11
2.2 Contract Performance 11
2.201 TIME IS OF THE ESSENCE 11
2.202 RESERVED 11
2.203 RESERVED 11
2.204 RESERVED 11
2.205 ELECTRONIC PAYMENT AVAILABILITY 11
2.206 RESERVED 11
2.3 Contract Rights and Obligations 11
2.301 INCURRING COSTS 11
2.302 CONTRACTOR RESPONSIBILITIES 12
2.303 ASSIGNMENT AND DELEGATION 12
2.304 TAXES 12
2.305 INDEMNIFICATION 12
2.306 LIMITATION OF LIABILITY 14
2.307 CONTRACT DISTRIBUTION 15
2.308 FORM, FUNCTION, AND UTILITY 15
2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION 15
2.310 RESERVED 15
2.311 TRANSITION ASSISTANCE 15
2.312 RESERVED 15
2.313 RESERVED 15
2.314 WEBSITE INCORPORATION 15
2.4 Contract Review and Evaluation 16
2.401 CONTRACT COMPLIANCE INSPECTOR 16
2.402 PERFORMANCE REVIEWS 16
2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS 16
2.5 Quality and Warranties 16
2.501 PROHIBITED PRODUCTS 16
2.502 QUALITY ASSURANCE 16
2.503 INSPECTION 17
2.504 GENERAL WARRANTIES (goods) 17
2.505 CONTRACTOR WARRANTIES 17
2.506 WORKPLACE DISCRIMINATION 18
2.507 LIABILITY INSURANCE 19
2.6 Breach of Contract 21
2.601 BREACH DEFINED 21
2.602 NOTICE AND THE RIGHT TO CURE 21
2.603 EXCUSABLE FAILURE 22
2.7 Remedies 22
2.701 CANCELLATION 22
2.702 RIGHTS UPON CANCELLATION 23
2.703 LIQUIDATED DAMAGES 24
2.8 Changes, Modifications, and Amendments 24
2.801 APPROVALS 24
2.802 MODIFICATION 24

Attachments:

Item Listing

Article1 – Statement of Work (SOW)

1.0 Introduction

1.001 PROJECT TITLE AND DESCRIPTION

This Contract is for Fresh Beef Products for the Department of Corrections, Michigan State Industries.

1.002 PROJECT CONTROL

The Contractor will carry out this project under the direction and control of the Department of Corrections, Michigan State Industries.

1.1 Product Quality

1.101 SPECIFICATIONS

1. Contractor shall maintain a quality assurance program, the HAACP and S.S.O.P. programs, together with in-house quality assurance programs. The quality assurance programs must contain limits on the numbers of hours or days that the product will be stored in various stages of the processing operation prior to shipment. These written programs will be open to the State of Michigan, DMB Purchasing Operations, and/or Michigan State Industries' inspection at the processing plant at any time during the life of the Contract.

2. The State of Michigan (DMB, Purchasing Operations and/or Michigan State Industries) will have the right to visit the processing plant and view the processing operations of the Contractor during the life of the Contract or review the inspection and quality assurance of the Contractor.

3. All beef items shall meet or exceed the following specifications in addition to individual item specifications**:**

   ALL BEEF SHALL BE FRESH PRODUCT. FROZEN, THAWED, REINSPECTED OR RECERTIFIED BEEF PRODUCTS MAY BE ACCEPTED FOR OPPORTUNITY BUYS.

   A. Meat color shall show a typical color that is indicative of fresh muscle meat.

   B. Cuts and slashes of meat shall not exceed 3" in length and/or ½" in depth.

   C. Meat shall be free of blood clots and bruises.

   D. All product containers must be identified with the product name, exact net weight and date of pack.

   E. All products shall have legible code dates on the box or package. Code dates shall specify date product was created and a shelf life expiration date.

4. The total quantities of each item listed on the attached item listing are three-year estimates. Amounts per item will vary over the length of the Contract. The total expected poundage over the three-year Contract period is 4,140,000 lbs. Some IMPS items may not be ordered.

5. If Contractor offers a special pricing on any item in the Contract, the offer (amount and price) shall be made available to MSI. The special offer price shall replace the predetermined Contract price set up in this Contract for the duration of the special offer.

1.102 PRODUCT TESTING AND QUALITY CONTROL

Contractor shall have a written Quality Control Program and a Product Testing Program in place which ensures safe and unadulterated products that meet specifications. These programs shall also ensure that all products are wholesome and that all manufacturers and suppliers to the contractor have effective Quality Control Programs, have standard operating procedures and use good manufacturing practices. All manufacturers supplying product to contractor shall have

verifiable HACCP programs in place at their manufacturing facilities. Contractor shall monitor the qualify control program of all suppliers and manufacturers.

Testing shall be done using FDA/USDA approved methodologies. Testing of fat content shall be in compliance with the methodology approved by the Association of Analytical Chemists. Routing and regular testing shall include product temperature, product age, product condition, bones, fat content, microbiological content, and foreign matter content.

The State of Michigan will periodically and randomly test products delivered to MSI for conformance to the requirements of the products and conformance to the manufacturer's specifications. Failure to meet the requirements will invalidate the Contract and will result in Contractor being in default and liable for liquidated damages as described in Section 2.703, Liquidated Damages.

1.103 PRODUCT QUALITY

Products shall meet the specifications found on the attached contract item listing, the specifications shown on Item 32 below, and shall meet the manufacturing specifications for each item. All products shall come from a USDA inspected facility.

There shall be zero tolerance for mold contamination. There shall be no mold on food products except what is part of its nature. In the event of mold contamination discovered during inspection by MSI, MSI shall reject the entire shipment of subject food product. Furthermore, in the event of mold contamination discovered while the food product is properly stored and handled at MSI in an unused condition within contractor's guaranteed shelf life, MSI shall reject the entire shipment of subject food product. Contractor shall pick up the rejected product within 48 hours of being notified of the rejection by MSI at no additional charge to MSI. Defective items shall be exchanged or credited by the contractor at the option of MSI.

If any items requested on Contract are produced and/or grown outside the United States, contractor shall indicate that the respective product is imported. Furthermore, if changes occur during the Contract period which may require the contractor to supply imported product rather than product produced and/or grown in the United States, approval must be granted by MSI prior to shipping of such product. Should MSI discover contractor has been supplying MSI with product from outside the United States without prior approval from MSI, the Contract may be cancelled.

All product containers shall be identified with the product name, exact net weight, and date of pack.

1.104 DEFECTIVE PRODUCT

Product will be inspected by MSI within 24 hours of delivery excluding State holidays and weekends. All products must be in a wholesome and sanitary condition when delivered. Products will not be accepted if the products fail to meet specifications either in product quality or packaging or the product is an unauthorized substitute product. Contractor must pick up the rejected product within 48 hours of being notified of the rejection by MSI at no additional charge to MSI. Defective items must be exchanged or credited by contractor at the option of the agency.

MSI reserves the right to hold rejected products suspected of being adulterated for inspection by the United States Department of Agriculture and/or the Michigan Department of Agriculture.

1.2 Service Capabilities

1.201 CUSTOMER SERVICE/ORDERING

Contractor shall respond to agency inquiries within one (1) business day of receipt of contact. A Customer Service Representative shall be assigned specifically to the MSI account, including name, toll-free phone number, fax and email address with contractor's proposal. The representative shall be prepared to assist MSI in any ordering or invoicing problems. Contractor shall have internal controls, approved by Purchasing Operations, to insure that authorized individuals with MSI place orders. Contractor shall verify orders requesting quantities that appear to be abnormal or excessive.

Contractor shall have the capability to receive orders electronically, by telephone, e-mail, facsimile, and by written order.

All delivery orders are subject to the terms and conditions of the contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

If mailed, a Purchase Order is considered "issued" when MSI deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods.

1.202 STOCK LEVELS

Backorders are not acceptable under this Contract. Products listed on this Contract shall be stocked on a regular basis. Any exceptions, such as product substitutions of equal grade or higher than original request at the same cost as the item originally ordered, shall be approved by MSI prior to shipping.

1.203 TRAINING

Contractor shall provide training to MSI, when necessary, on aspects of ordering, shipping, billing, and receiving. At the request of the Contract Compliance Inspector, contractor shall provide in-service training to agency personnel on products, installation, and product safety issues.

1.204 REPORTING

Contractor shall be able to provide various reports when requested by MSI and/or Purchasing Operations, DMB. Examples include itemized report of total items (commodities) purchased by MSI, open invoice reports, delivery compliance reports, quantity reports, service compliance reports, etc.

1.205 SECURITY

The Contract will require frequent deliveries or on-site service to MSI. If security background checks are performed on staff, contractor shall provide the MSI with the name of the company that performed the check as well as a document stating that each employee has satisfactorily completed a security check and is suitable for assignment to MSI facilities. Upon request by MSI, contractor shall provide the results of all security background checks.

MSI will determine whether to issue State ID badges to contractor's delivery personnel or accept the ID badge issued to delivery personnel by contractor.

MSI may decide to also perform a security background check. If so, contractor will be required to provide to the State a list of all delivery people that will service MSI facilities, including name and date of birth (social security number or driver license number may also be required).

Contractor and its subcontractors shall comply with the security access requirements of individual MSI facilities.

1.3 Delivery Capabilities

1.301 TIME FRAMES

All orders shall be delivered on specific delivery dates. A three (3) to seven (7) calendar day notice of delivery will be given to Contractor. Product shall be delivered as specified by MSI.

Deliveries shall be made Monday through Friday, 6:30 a.m. through 1:30 p.m. No deliveries will be accepted on State of Michigan holidays.

Items delivered shall meet factory superintendent's approval. Overages or shortages in excess of 5% will not be accepted.

There shall be nothing loaded on or in the truck other than the items being delivered to MSI.

MSI reserves the right to require that delivery be made directly to the processing plant.

At least 24 hours prior to delivery of an order, the carrier shall call the factory superintendent at (517) 780-6242 and provide the information for Law Enforcement Information Network (L.E.I.N.) clearance of the delivery driver.

Contractor should be aware that there is a possibility of a mobilization at any of the correctional facilities which prohibits delivery carriers entering the facility at time of arrival. MSI will not be responsible for any additional charges which may arise due to delivery delays caused by a mobilization.

1.302 MINIMUM ORDER

The minimum order is 12,000 pounds per shipment.

1.303 PACKAGING

All packaging and packing material shall be new and clean and shall not impart objectionable odors or flavors to the product. MSI will **NOT** accept product packed in glass. **Metal wire ties, metal clips, paper-coated wire ties, or staples must not be used for sealing cartons.** Cartons shall be clean, new fiberboard or single-wall boxes and of adequate strength to provide protection and stacking strength. Cartons shall be clearly marked with the product name, product code, net weight, count/size, open date code of manufacturer, list of ingredients, and the container must bear the U.S.D.A. legend. Cartons shall be no less than 55 lbs/carton or more than 90 lbs/carton.

The pack sizes indicated on the attached Item Listing represent the sizes currently used by MSI. MSI reserves the right of final approval on packaging offered by the contractor.

1.304 PALLETIZING

Shipments shall be palletized whenever possible and shall conform to the following:

- Manufacturer's standard 4-way shipping pallets are acceptable.
- Maximum height: 5'6"; including pallet.
- Maximum weight: 3500 pounds; including pallet.
- Pallets are to be securely banded or shrink-wrapped.
- The cost of palletizing must be included in the unit price.

1.305 DELIVERY TERM

Prices are "F.O.B. Delivered" with transportation charges prepaid on all orders of 12,000 pounds or more.

1.306 DELIVERY TEMPERATURE

Delivery shall be made in a clean, enclosed, temperature controlled, truck and be free from odors. Inside of trucks shall be washed as necessary throughout the calendar year to maintain clean and sanitary conditions.

All products shall be transported maintaining the proper storage temperatures:

The temperature of the meat upon receipt shall be between 29 degrees F and 40 degrees F unless specified within the item product detail description.

MSI will inspect products to verify delivery temperatures and may reject all or a portion of deliveries not meeting these specifications.

MSI will not accept salvage, distressed, or expired merchandise. Shipping of such merchandise to MSI facilities, as a result of an order placed against the Contract, shall be considered default by

Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by MSI. The brand and product number offered for all items shall remain consistent for the term of the Contract unless MSI has approved a change.

1.307 CARRIER REQUIREMENTS

Trucks used for transport of products from Contractor's supplier(s) and trucks used to deliver products to MSI shall be regularly inspected for cleanliness and the ability to maintain adequate refrigeration.

1.4 Project Bidding/Pricing/Invoicing/Payments

1.401 Bidding Process

a. Bids will be faxed to each of the pre-qualified contractors with the expectation of a return response the same day of the request.

b. Bids will be awarded to pre-qualified contractors based on best value, which will consist of overall price, delivery schedule and availability.

1.402 PRICING

Each time MSI needs to place an order for a fresh beef product, they will solicit pricing from the pre-qualified contractors. The market price of beef will be the same for all contractors on any given day. Award will be made to the contractor with the lowest overhead costs and/or lowest profit margin.

1.403 INVOICING AND PAYMENTS

All invoices shall reflect the prices and discounts established for the items on this Contract for all orders placed by MSI. Before payment is made, MSI will verify that all invoiced charges are correct as per the Contract. Only properly submitted invoices will be officially processed for payment. Prompt payment requires that invoices be clear and complete in conformity with the instructions below. All invoices shall be itemized showing:

- MSI facility name and address
- MSI facility account number
- Contractor name and remit to address
- MSI purchase order number and date
- Item brand name and/or manufacturer's name
- Item description
- Manufacturer's product number and stock number
- Prices per Contract, such as unit price and extended price including applicable discounts of each item, with detailed backup if required
- Quantity shipped/statement total

1.5 Quantity Term

Requirements – Contractor agrees to supply all that the state requires

1.6 Other Terms and Conditions Needed for this Contract

1.601 SPOT BUYS

Contractor shall have available for purchase by MSI the following kinds of products:

- Prison Pack: Products that are slightly off specifications for a manufacturer's primary customer.

- Special Buys: One-time inventory liquidations available due to oversupply, discontinued labels, change of pack for other reasons which do not affect product quality.

It is expected that MSI will fulfill most of its needs utilizing the commodities included in this Contract.

1.602 FACILITIES/PRODUCTION/WAREHOUSING/DISTRIBUTION

Contractor shall have the ability to produce and supply food distributors to ensure no product shortages.

Contractor shall have sufficient warehouse space to assure ample stock levels to prevent product shortages. Backorders will not be acceptable.

Contractor shall have the fleet or subcontracted carriers needed to ensure product is delivered on time per the contract requirements.

1.603 HAZARD ANALYSIS CRITICAL POINT (HACCP) PROGRAM

Contractor's Production Plant(s) and Distribution Centers shall have a fully implemented HACCP Program. In addition, contractor shall have a USDA certified laboratory or access for testing chemical residues.

1.604 RECALL PROGRAM

Contractor shall have the ability to track all products delivered (barcode/UPC's) to the distributor.

Contractor shall have a product recall program that provides for immediate notification to all customers, including MSI, which have received the recalled products. In all cases of product recall, contractor shall notify MSI that MSI has received the recalled product. In addition, contractor shall notify the buyer of this contractual agreement and the Contract Compliance Inspector. Notification shall not exceed twenty-four (24) hours after contractor learns of the recall. Contractor shall have the ability to track products by lot number to specific customers including MSI. Contractor is responsible for picking up and replacing or issuing credit for all products that are subject to recall at no additional charge to MSI.

1.605 SANITATION INSPECTION/PEST CONTROL

Contractor shall conform to all applicable Federal, State and local laws regarding sanitation.

1.606 NUTRITIONAL INFORMATION

If requested by MSI, contractor shall provide nutritional data for any products within three (3) business days to MSI at no additional cost. Online access to all nutritional information is preferred.

1.607 SAMPLES DURING CONTRACT TERM

If requested, contractor shall provide sample quantities, at no cost to MSI, so they can determine whether products not currently purchased meet their needs. Sampling may be required during the life of the Contract. Contractor shall be available to assist in sampling if needed.

1.608 PRODUCT AVAILABILITY

MSI will not allow any cancellation of products used without an equal and acceptable replacement approved by MSI during the term of the Contract. Contractor shall communicate manufacturer's discontinuation of any products to MSI, Contract Compliance Inspector, in writing within five (5) business day. In such instances, Contractor will work with MSI to implement alternative options. Contractor shall be prepared to offer detailed quarterly reports if requested by MSI displaying removed SKUs of Contract listing and suggested replacements.

Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

The Contract is for Fresh Beef Products for the Michigan Department of Corrections, Michigan State Industries. Exact quantities to be purchased are unknown; however, contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to Contractor by MSI on the Purchase Order Contract Release Form.

All orders will be shipped to Michigan State Industries, Meat Processing Plant, 1765 East Parnall Road, Jackson, MI 49201.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Purchasing Operations, State of Michigan, Department of Management and Budget, hereinafter known as Purchasing Operations, for the Department of Corrections, Michigan State Industries (MSI), hereinafter known as MSI. Where actions are a combination of those of Purchasing Operations and MSI, the authority will be known as the State.

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

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

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

Department of Management and Budget
Purchasing Operations
Attn: Joan Bosheff
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
Phone: (517) 373-7374
Email: bosheffj@michigan.gov

2.003 NOTICE

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

2.004 CONTRACT TERM

The term of this Contract will be for three (3) years. This will be June 1, 2007, through June 1, 2010.

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

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

Written notice will be provided to contractor before the contract expires. The preliminary notice does not commit the State to an extension. If the State exercises this option, the extended contract shall be considered to include this option clause.

2.005 GOVERNING LAW

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

2.006 APPLICABLE STATUTES

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

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

2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the contractor is that of client and independent contractor. No agent, employee, or servant of the contractor or any of its subcontractors shall be or shall be

deemed to be an employee, agent, or servant of the State for any reason. Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

2.008 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 this Contract.

2.009 MERGER

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

2.010 SEVERABILITY

Each provision of 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.

2.011 SURVIVORSHIP

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

2.012 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.

2.013 PURCHASE ORDERS

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

2.1 Contractor/Contractor Obligations

2.101 ACCOUNTING RECORDS

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

2.102 NOTIFICATION OF OWNERSHIP

Contractor shall make the following notifications in writing:

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

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

Contractor shall:

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

2. Provide Purchasing Operations or designated representative ready access to the records upon request;

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

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

2.103 RESERVED

2.104 RESERVED

2.105 RESERVED

2.106 PREVAILING WAGE

The rates of wages and fringe benefits to be paid each class of individuals employed by the contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Consumer and Industry Service, Bureau of Safety and Regulation, Wage/Hour Division schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Consumer and Industry Services, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.107 PAYROLL AND BASIC RECORDS

Payrolls and basic records relating to the performance of this contract shall be maintained by contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

Prime contractor is responsible for the submission of copies of payrolls by all subcontractors upon request from the Contract Administrator

Contractor or subcontractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

2.108 COMPETITION IN SUBCONTRACTING

Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

2.109 CALL CENTER DISCLOSURE

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

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

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

2.202 RESERVED

2.203 RESERVED

2.204 RESERVED

2.205 ELECTRONIC PAYMENT AVAILABILITY

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

2.206 RESERVED

2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

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

2.302 CONTRACTOR RESPONSIBILITIES

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

2.303 ASSIGNMENT AND DELEGATION

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

Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Purchasing Operations has given written consent to the delegation.

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

2.304 TAXES

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

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

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

2.305 INDEMNIFICATION

General Indemnification

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

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

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

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

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

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

Patent/Copyright Infringement Indemnification

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

Code Indemnification

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

Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of contractor 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 contractor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

Continuation of Indemnification Obligation

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

Indemnification Procedures

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

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

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

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

2.306 LIMITATION OF LIABILITY

Except as set forth herein, neither contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such

damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

2.307 CONTRACT DISTRIBUTION

Purchasing Operations shall retain the sole right of Contract distribution to MSI unless other arrangements are authorized by Purchasing Operations.

2.308 FORM, FUNCTION, AND UTILITY

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

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

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

2.310 RESERVED

2.311 TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, Contractor must provide for up to 90 days after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

2.312 RESERVED

2.313 RESERVED

2.314 WEBSITE INCORPORATION

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

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

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

Nancy Taylor-Williams
Michigan Department of Corrections
Michigan State Industries
Purchasing Section
5656 South Cedar Street
Lansing, MI 48911
Telephone: (517) 373-3910
Email: taylorne@michigan.gov

2.402 PERFORMANCE REVIEWS

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

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

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

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

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to MSI, as a result of an order placed against the Contract, shall be considered default by contractor 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.

2.502 QUALITY ASSURANCE

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

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

2.503 INSPECTION

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of the Contract, MSI shall have the right to reject the goods or retain the goods and correct the defects. Contractor shall pay the State for expenses incurred in correcting defects. Contractor must pick up the rejected product within 48 hours of being notified of the rejection by the agency at no additional charge to the State. Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event contractor fails to make arrangements within the specified time period.

2.504 GENERAL WARRANTIES (goods)

Warranty of Merchantability – Goods provided by contractor under this agreement shall be merchantable. All goods provided under this contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the contractor or on the container or label.

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

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

2.505 CONTRACTOR WARRANTIES

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;

2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;

3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;

4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;

5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;

6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;

7. The Contractor has duly authorized the execution, delivery and performance of the Contract;

8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.

9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.

10. The Contractor is the lawful owner or licensee of any Deliverable licensed or sold to the state by Contractor or developed by Contractor under this contract, and Contractor has all of the rights necessary to convey to the state the ownership rights or license use, as applicable, of any and all Deliverables.

11. If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items as set forth in this Contract, Contractor 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.

12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.

13. The Contractor is qualified and registered to transact business in all locations where required.

14. Neither Contractor 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 Contractor'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. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor 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 changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

2.506 WORKPLACE DISCRIMINATION

Contractor represents and warrants that in performing services for the State pursuant to this Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their 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 handicap or disability. Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

2.507 LIABILITY INSURANCE

A. Insurance

Contractor 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 Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, 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.

Contractor 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 Contractor is required to maintain pursuant to this Contract.

All insurance coverage provided relative to this Contract/Purchase Order is 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 Contractor 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. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See www.michigan.gov/cis

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

Before both parties sign the Contract or before the purchase order is issued by the State, Contractor 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 coverage 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.

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

(X) 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)

Contractor 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. Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

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

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

(X) 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor 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.

Contractor 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.

(X) 4. Employer's 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 Contractor 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).

(__) 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

(__) 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars ($3,000,000.00) each occurrence and three million dollars ($3,000,000.00) annual aggregate.

(__) 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

B. Subcontractors

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

C. Certificates of Insurance and Other Requirements

Contractor 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 Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, 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.

Contractor 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 Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor 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 Contractor 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 Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.6 Breach of Contract

2.601 BREACH DEFINED

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

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

2.602 NOTICE AND THE RIGHT TO CURE

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

2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its 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 best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

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

2.7 Remedies

2.701 CANCELLATION

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

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

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

procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

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

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

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

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

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

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

2.702 RIGHTS UPON CANCELLATION

Termination Assistance. If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be

governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates within this Contract agreement.

2.703 LIQUIDATED DAMAGES

The timely receipt of wholesome meat conforming to the specifications of this Contract is crucial to the operation of Michigan State Industries. If any product is not delivered within the time specified in the Contract and/or does not meet specifications, such an occurrence will impact the operation of MSI to the loss and damage to the State. It would be impracticable and extremely difficult to fix the actual damages that would be sustained in the event product is not delivered on time or does not meet specifications. Contractor and MSI therefore agree that the amount of damage will be $0.60 per pound for each pound which is delivered late or $0.60 per pound for product which does not meet specifications. The State, at its option, for amounts due the State as liquidated damages, may deduct from any money payable to the Contractor or may bill the Contractor as a separate item.

Liquidated damages will NOT be assessed if failure to provide the product as required by the Contract is the result of unforeseen causes which are not caused in whole or in part by any act or omission within the control of Contractor. These unforeseen causes include acts of God or the public enemy; fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, severe weather and severe shortage of product considering all other acceptable and feasible sources of supply.

2.8 Changes, Modifications, and Amendments

2.801 APPROVALS

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

2.802 MODIFICATION

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

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

ITEM LISTING

The items listed below are a sample of the items that will be ordered by MSI during the contract period.

Unit	Description
LB	**BEEF, RIB BLADE MEAT IMPS #109B.** USDA CHOICE GRADE TRIMMED PRACTICIALLY FAT FREE. AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: CAP AND WEDGE MEAT.
LB	**BEEF, CHUCK SHOULDER CLOD IMPS #114.** USDA CHOICE GRADE 1/4” TRIM. AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: 114 SHOULDER CLOD.
LB	**BEEF, GROUND COURSE 81/19 IMPS #136.** 3/8” GRIND 81% LEAN TO 19% FAT OR BETTER. TEMPERATURE AT DELIVERY MUST BE BETWEEN 28 DEGREES AND 34 DEGREES. ALL FRESH PRODUCT, NO STEAK TRIMMINGS. GROUND BEEF MAY NOT BE DERIVED FROM PREVIOUSLY CERTIFIED MEAT THAT HAS BEEN FROZEN AND STOCKED. AGE SPEC: 2 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: COARSE GROUND BLEND 80%.
LB	**BEEF, CHUCK TWO PIECE BONELESS IMPS #115.** UTILITY OR EQUIVILENT GRADE UTE 90% VISUAL LEAN. AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: CUTTER COW CARCASS CATEGORY BONELESS CHUCK 85%
LB	**BEEF CHUCK, CHUCK TENDER IMPS #116BA.** USDA CHOICE GRADE. AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: 116B CHUCK TENDER.
LB	**BEEF, CHUCK, ROUND TOP (INSIDE) TRIMMED IMPS #168.** USDA CHOICE GRADE. 1/4" TRIM. AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: CLOSELY TRIMMED CATEGORY INSIDE ROUND.
LB	**BEEF, ROUND BOTTOM (OUTSIDE) IMPS #171B.** USDA CHOICE GRADE 1/4” TRIM. SILVER STRAP REMOVED AGE SPEC: 10 DAYS FROM DAY OF PRODUCTION PACK TO DELIVERY. PUBLISHED USDA BLUE SHEET DESCRIPTION: 171 OUTSIDE ROUND.
LB	**SPEC BEEF, MISCELLANOUS PRODUCTION OVERRUNS AND OPPORTUNITY BUYS.**