



STATE OF MICHIGAN
ENTERPRISE PROCUREMENT
 Department of Technology, Management, and Budget
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **8**

to

Contract Number **071B9200055**

CONTRACTOR	PHAMATECH INC
	15175 Innovation Drive
	San Diego, CA 92128
	Dana Conde
	858-643-5840 x276
	dconde@phamatech.com
	*****6229

STATE	Program Manager	Maurice Hills	MDOC
		517-241-7062	
		hillsm1@Michigan.gov	
	Contract Administrator	Brandon Samuel	DTMB
		(517) 284-7025	
		samuelb@michigan.gov	

CONTRACT SUMMARY

ON-SITE URINE DRUG TEST KITS			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
November 1, 2008	October 31, 2011	2 - 1 Year	December 31, 2016

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 days	

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

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DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	4 months	April 30, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$300,000.00	\$0.00	\$300,000.00		

DESCRIPTION

Effective 12/31/16 this contract is extended 4 months. The revised expiration date is April 30, 2017. All other terms, conditions, specifications and pricing remain the same. Per contractor, and agency agreement, DTMB-Procurement approval, and State Administrative Board approval on 4/19/2016.

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET
 PROCUREMENT

525 W. ALLEGAN STREET
 LANSING, MI 48933

P.O. BOX 30026
 LANSING, MI 48909

CHANGE NOTICE NO. 7
 to
 CONTRACT NO. 071B9200055
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Phamatech Inc 10151 Barnes Canyon Rd. San Diego CA, 92121	Dana Conde	dconde@pharatech.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	858-643-5840 x 276	*****6229

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DOC	Maurice Hills	517-241-7062	hillsm1@Michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Brandon Samuel	517-284-7025	samuelb@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: On-Site Urine Drug Test Kits			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
November 1, 2008	October 31, 2011	2 - 1 Year	April 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	8 Months	December 31, 2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$ 300,000.00		\$ 0.00	\$ 300,000.00	

DESCRIPTION:
 Effective April 19, 2016 this contract is hereby extended 8 months. The revised contract expiration date is December 31, 2016.

Please note the vendor primary contact has been changed to Dana Conde.

All other terms, conditions, specifications, and remain the same. Per agency request, contract agreement, DTMB Procurement approval, and State Administrative Board approval on April 19, 2016.

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

CHANGE NOTICE NO. 6
 to
CONTRACT NO. 071B9200055
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Phamatech Inc. 10151 Barnes Canyon Road San Diego, CA 92121	Lydia Jackson	Lydia@phamatech
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	858-643-555 x226	6229

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	MDOC	Maurice Hills	517-241-7062	Hillsm1@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Brandon Samuel	517-284-7025	samuelb@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: On-Site Oral and Urine Drug Test Kits			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11/1/2008	10/31/2011	2 – one year	04/30/2015
PAYMENT TERMS	F.O.B.	SHIPPED TO	
N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	One year	April 30, 2016
CURRENT VALUE	VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE		
\$4,000,000.00	(\$3,700,000.00)	\$300,000.00		

DESCRIPTION:
 Effective April 27, 2015, this contract is extended 12 months; and is decreased by \$3,700,000. This contract is reduced based on the contract usage. The revised contract expiration date is April 30, 2016.

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on April 14, 2015.

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

CHANGE NOTICE NO. 5
 to
CONTRACT NO. 071B9200055
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Phamatech Inc. 10151 Barnes Canyon Road San Diego, CA 92121	Lydia Jackson	Lydia@phamatech
	TELEPHONE	CONTRACTOR #, MAIL CODE
	858-643-555 x226	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	Maurice Hills	517-241-7062	Hillsm1@michigan.gov
BUYER	DTMB	Pamela Platte	517-284-7022	platttep@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: On-Site Oral and Urine Drug Test Kits			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11/1/2008	10/31/2011	2 – one year	10/31/2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			

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
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6 months	04/30/2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$4,000,000.00		

Effective October 31, 2014, this contract is extended six months. The revised contract expiration date is April 30, 2015. Please note the Contract Administrator has been changed to Pam Platte. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval, and State Administrative Board approval on October 28, 2014.

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. 4
 to
CONTRACT NO. 071B9200055
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Phamatech, Inc. 10151 Barnes Canyon Road San Diego, CA 92121	Lydia Jackson	lydia@pharmatech.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(858) 643-5555 x 226	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	Maurice Hills	517-241-7062	Hillm1@michigan.gov
BUYER	DTMB	Steve Rigg	517-284-7043	riggs@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Instrumented Urine Drug Test Kits for the Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
November 1, 2008	October 31, 2011	2, one year	April 30, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6 months	October 31, 2014
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$4,000,000.00		

Effective April 22, 2014, this contract is hereby extended six months to October 31, 2014. Please note that the buyer has been changed to Steve Rigg. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.

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. 3
 to
CONTRACT NO. 071B9200055
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Phamatech, Inc. 10151 Barnes Canyon Road San Diego, CA 92121	John Toma	toma@phamatech.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(858) 643-5555	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	Maurice Hills	517-241-7062	Hillm1@michigan.gov
BUYER	DTMB	Jim Wilson	517-241-1916	Wilsonj4@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Instrumented Urine Drug Test Kits for the Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
November 1, 2008	October 31, 2011	2, one year	October 31, 2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6 months	April 30, 2014
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$4,000,000.00		
Effective October 31, 2013, this contract utilizes 6 months of an option year. The new contract end date is April 30, 2014. Please note that the buyer has been changed to Jim Wilson. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.				

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 26, 2012

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B9200055
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Phamatech, Inc. 10151 Barnes Canyon Rd. San Diego, CA 92121	John Toma	toma@phamatech.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(858) 643-5555	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	MDOC	Maurice Hills	(517) 241-7062	HillsM1@michigan.gov
BUYER:	DTMB	Kristen Robel	(517) 373-7396	robek@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: PROVIDE A BASIC BUT COMPREHENSIVE DESCRIPTION OF SERVICES			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
November 1, 2008	October 31, 2011	2, 1 Yr. Options	October 31, 2012
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:		AVAILABLE TO MI DEAL PARTICIPANTS	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	IF YES, EFFECTIVE DATE OF CHANGE: November 1, 2012	NEW EXPIRATION DATE: October 31, 2013
<p>Effective immediately, this Contract is utilizing the second option year.</p> <p>All other terms, conditions, specifications, and pricing are the same.</p> <p>Per agency and vendor agreement and the approval of DTMB Procurement.</p>		
VALUE/COST OF CHANGE NOTICE:	\$0.00	
ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:	\$4,000,000.00	

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

May 12, 2011

CHANGE NOTICE NO.1
OF
CONTRACT NO. 071B9200055
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Phamatech, Inc. 10151 Barnes Canyon Rd. San Diego, CA 92121	TELEPHONE John Toma (858) 643-5555
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7396 Kristen Robel
Contract Compliance Inspector: Thomas Combs On-Site Urine Drug Test Kits – Department of Corrections	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: November 1, 2008 To: October 31, 2012	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE(S):

Effective immediately, this contract is hereby EXTENDED for one year to October 31, 2012. Please also note that the buyer has been changed to:

Kristen Robel – (517) 373-7396 robek@michigan.gov.

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

AUTHORITY/REASON(S):

Per agency and DTMB Purchasing Operations approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$4,000,000.00

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

November 19, 2008

**NOTICE
 OF
 CONTRACT NO. 071B9200055
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF CONTRACTOR Phamatech, Inc. 10151 Barnes Canyon Rd. San Diego, CA 92121		TELEPHONE John Toma (858) 643-5555
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-1647 Irene Pena, CPPB
Contract Compliance Inspector: Thomas Combs On-Site Urine Drug Test Kits – Department of Corrections		
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: November 1, 2008 To: October 31, 2011		
TERMS N/A	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		
MISCELLANEOUS INFORMATION:		

The terms and conditions of this Contract are those of ITB #07118200038, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: \$4,000,000.00

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

**CONTRACT NO. 071B920055
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF CONTRACTOR Phamatech, Inc. 10151 Barnes Canyon Rd. San Diego, CA 92121	TELEPHONE John Toma (858) 643-5555 CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1647 Irene Pena, CPPB
Contract Compliance Inspector: Thomas Combs On-Site Urine Drug Test Kits – Department of Corrections	
CONTRACT PERIOD: <u>3 yrs. + 2 one-year options</u> From: November 1, 2008 To: October 31, 2011	
TERMS	SHIPMENT
N/A	N/A
F.O.B.	SHIPPED FROM
N/A	N/A
MINIMUM DELIVERY REQUIREMENTS N/A	
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of ITB #07118200038, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence. Estimated Contract Value: \$4,000,000.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07118200038. Orders for delivery will be issued directly by the Department of 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 CONTRACTOR: _____ Phamatech, Inc. Firm Name _____ Authorized Agent Signature _____ Authorized Agent (Print or Type) _____ Date	FOR THE STATE: _____ Signature Anthony Des Cheses, Director Name/Title Commodities Division, Purchasing Operations _____ Division _____ Date
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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

The purpose of this Contract is to obtain:

On-site QuickScreen Pro Multi Drug Test device services.

1.02 Background

The Michigan Department of Corrections Substance Abuse Services Section is located within the Office of Community Corrections and is responsible for all substance abuse testing and treatment programs for approximately 120,000 prisoners, parolees and probationers under its jurisdiction. Each year more than 450,000 tests are conducted on the offender population. The primary method involves the testing of urine samples with Point of Collection devices. These devices are commonly referred to as instant or on-site testing products. Saliva testing is often reserved for instances where obtaining or testing a urine sample are not practical due to a medical condition (e.g., kidney dialysis, cross gender testing).

1.1 Scope of Work and Deliverables

1.101 In Scope

The Contractor will carry out this project under the direction and control of the Michigan Department of Corrections, Office of Community Corrections, and Substance Abuse Services section (hereinafter referred to as MDOC-SAS).

Although there will be continuous liaison with the Contractor team, the MDOC-SAS Contract Compliance Inspector may meet quarterly, at a minimum, with the Contractor's Project Manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which may arise, or for on-site inspection of the Contractor's operation and premises. All costs related to these visits will be the responsibility of the Contractor.

On an annual basis, the Contract Administrator and up to one other person may make an on-site visit to the Contractor's location for the purposes of reviewing progress and providing necessary guidance to the Contractor in resolving problems which may have arisen, and for an on-site inspection of the Contractor's operation and premises. All reasonable costs related to these visits will be the responsibility of the Contractor. Costs shall include but not be limited to; travel, meals, and hotel accommodations.

Phamatech agrees with the Scope of Work and Deliverables.

1.102 Out of Scope –

The State reserves the right to modify the scope to of work in conformance with this Contract.

1.103 Environment

The Contractor may be required to visit correctional facilities, parole/probation office locations and community-based treatment provider locations to meet with MDOC staff, provide training, guidance and service.



1.104 Work and Deliverables

Contractor is referred to the following resources under which these specifications were derived from:

- Proposed Revisions to Mandatory Guidelines for Federal Workplace Testing Programs, Department of Health and Human Services, Substance Abuse Mental Health Services Administration, April, 2004.
- U.S. Food and Drug Administration, Center for Devices and Radiological Health, 510K Clearance Process. www.fda.gov/cdrh
- Title 21 Code of Federal Regulations (CFR) Part 807.

Contractor is to review the proposed listing of account locations when proposing to install and maintain systems to meet demand for services for these locations.

The MDOC will provide staffing to operate these systems. The Contractor shall provide the following:

- Provide and install System.
- Complete water (hookup) system with service, (if required)
- Data management system. Create drug test result reports. Not linked to MDOC data base.
- OMNI Interface, (will commit to IT support for interface development at no cost) and must propose a plan. Please refer to Offender Management Network Information (OMNI) Requirements.
- Calibrators and Controls at no charge.
- Consumables¹.
- Training.
- On-site service assistance within 24 hours of service call by in-state representative. Full maintenance agreement to cover system service at no cost.
- All training, supplies, materials, reagents, must propose to install and maintain new systems, old or refurbished systems will not be accepted.
- Printers for donor reports.
- Handheld CCD bar code reader, if proposed.
- Computer (requirements)
 - MS Windows XP®
 - 128 MB RAM
 - 40 GB Hard Drive
 - Monitor, at least 15"
 - 1 Serial port
 - 1 Parallel port for printer
- Litigation Support – Defend Results
 - Expert testimony by qualified experts
 - Affidavits covering
 - Validity/Reliability of test procedures
 - Test result interpretation
 - Internal Chain of Custody Procedures
 - Meaning of analytical results
 - Issue procedures related to equipment (calibration, type, operation)
 - Data systems management

Phamatech agrees to ALL of the above items.



Support and Service: Phamatech’s technical and customer service support is convenient, efficient, and comes highly praised. The following support is available (Live Person Support; Monday through Friday 7:00 a.m. to 5:00 p.m.)

Telephone: Toll-Free – (888) 635-5840

Emergency Phone #: - (619) 884-1281

Primary Contact: Dennis Hirsch Secondary Contact: John Toma

Internet/Web: www.phamatech.com/producttraining.html or
www.phamatech.com/contact.html

Phamatech creates a secure web portal specifically for the Department of Corrections to obtain invoices, track orders, and view/download training documents. The Department of Corrections is also able to access Question and Answer help through the online portal.

This Contract may cover services for one or more locations identified below. Contractor is responsible for all locations below that apply. One pricing schedule will cover services for all locations, and are not location specific, and be quoted and reimbursed at a cost per test.

Phamatech agrees.

Systems or analyzers must be serviced by the direct manufacturer or be recognized as an authorized service provider for that specific analyzer.

Phamatech agrees.

The Contractor will be responsible for any damage to systems, equipment at MDOC locations base on vendor’s negligent or willful misconduct regardless of fault. The Michigan Department of Corrections will not assume any damage liability.

Phamatech will provide a variety of systems which meet local demand:

- High Volume –Run 300+ tests per hour
- Medium – Run 100-300 tests per hour.
- Low – Less than 100 tests per hour

It is anticipated that prisons and camps will conduct a minimum test per prisoner for three 3 substances (i.e., THC, Cocaine and Opiates).

The following locations may be utilizing Instrumented Devices.

Location	Anticipated Monthly Volume	Anticipated Demand Level
Cooper Street Correctional Facility	3,750 tests	Medium
Region I Parole/Probation covering an anticipated 3 test locations covering entire region	30,000 tests	High
Genesee County Parole	2000	Low
Genesee County Probation	2000	Low
Pontiac Parole	2000	Low
Pontiac Probation	2000	Low
Mt. Clemens Parole/Probation	4500	High



Kalamazoo County Parole/Probation	3000	Medium
Kent County Probation	2000	Low
Kent County Parole	2000	Low

Development of system programming to allow test results to be entered into OMNI database.

Note: The State does not seek to purchase or develop a data system but shall require the vendor to develop an integrated data system to the departments already established system of electronic record keeping. The system interface must allow for timely data entry of drug and alcohol test results within departmental databases. Please refer to OMNI Information System Requirements for additional information.

Phamatech Agrees.

Offender Management Information Network (OMNI) Information System Requirements

Overview

The mandate of Michigan Department of Corrections is to provide for the administration of individuals having contact with the department. This includes the tracking and recording of details required for institutional report preparation and community supervision. In addition, the department must carry out ever increasing statistical reporting functions for many State and Federal agencies. OMNI is designed to help accomplish this mandate.

The Michigan Department of Corrections operates a client server computer system in all of its field offices. Each field office, comprising a local area network (LAN), is connected to a statewide area network (WAN). This architecture provides the Department with the opportunity to document offender data in a statewide central database that is accessed through the Offender Management Network Information (OMNI) application.

Currently the OMNI system has been rolled out in each of our parole, probation and prison locations statewide. Plans are to eventually phase out Corrections Management Information System (CMIS), the current data system for our prison system, sometime within the next 2 years and replace with OMNI. For information regarding CMIS please refer to attachment F.

As of today, field agents within each office have been provided a desktop workstation from which to update and inquire on offender data. All essential case management activities are completed in the OMNI application from the agent's desktop. In addition to documenting case supervision activity in OMNI, non-agent staff enters supporting offender data in the system as well. All data entered through OMNI at the desktop travels across the state's network and is stored on a central computer in Lansing.

OMNI Connection to CMIS

CMIS updates OMNI every business day evening. Therefore, any information, including drug test records, entered in CMIS will not show up in OMNI until the next day. CMIS only records data on parolees and prisoners, not probationers.

OMNI contains records, including drug test records, for all offender populations, (parolees, probationers and prisoners).

OMNI is not able to update CMIS. Therefore, test records entered in OMNI will not show up in CMIS.



System Requirements

OMNI operates within a Data Exchange Gateway (DEG). The highest level is like a FTP server hosted on a Tandem System. Some of its features are a store and forward mailbox similar to what the Department uses with the import of drug test results currently done within our CMIS (Corrections Management Information System). The FTP file, which contains certain drug test result information, is sent to a mailbox on the DEG and auto delivered daily to the Unisys mainframe.

There are a variety of services that the DEG provide such as FTP, SSL, FTP and web page access (https:). Arrangements will have to be made to accommodate business partners on an individual basis to accommodate Departmental needs within State Standards.

Siemens will be required to work with staff from the Michigan Department of Information Technology to further refine, test and implement this file format. File formats will be required at all locations which contain Instrumented Test Devices and it is expected that files will be “pushed” onto the Unix mailbox daily to allow timely data entry.

OMNI Drug Test Fields

Each offender profile contains the following 4 drug test (tab) fields within their profile record. Offender (parolee/prisoner/probationer) profiles contain a wide range of information, of which drug test data is a small part. Currently all instant drug test results for parole/probation and prison locations are manually entered into OMNI (parolees/probationers) or CMIS (prisoners). All instant test results entered into CMIS are transferred into OMNI. All reference laboratory test results (instant test results sent for confirmation results) are downloaded into CMIS and eventually transferred into OMNI.

OMNI contains the following 4 tabs

- Substance Abuse Test
- Prescription Drug
- Test Result
- Drugs Tested

Substance Abuse Test Tab:

Data Field	Comments	Bidder Response (Script needed)
Specimen Date	Date of test	Yes
Specimen Location	Location of test –Default to location of entry	No
Sample Type	Type of sample	Yes, will use On-Site Urine Test
Patch Wear/Completion/Removal	For sweatpatch only	No
Testing Lab	Name of lab used	Yes- Siemens will have their lab name entered in this field
Lab Sample Referral Code	Barcode	Yes. ²
Reason Tested	Reason for conducting test. Field contains 9 subcategories.	Yes.

² For IDTDs positive samples may be forwarded onto independent reference laboratory for confirmation testing using the original Chain of Custody procedures established by vendor, which includes, COC form, barcode. This same barcode will be used to track, establish and maintain the COC process throughout the entire testing process.



Specimen Date	Sample Type	Lab Sample Ref Code
03/05/2007	(None)	
11/21/2005	Lab Urine Test	0080047064
11/03/2004	PBT	

Record 4 of 4

Specimen Date: 03/05/2007 Specimen Location: G. ROBERT COTTON CORRECTIONAL FA Prescription Drug:

Sample Type: Sample Taken Flag: Reason Sample Not Taken: (None)

Patch Length Of Wear: Completion Of Wear: (None) Removal Reason: (None)

Test Taker Type: MDOC Employee Employee: FROMSON, JOHN S Other: (None)

Testing Lab: (None) Lab Sample Ref Code: Reason Tested: (None)

Notes:

Enter Sample Type

Specimen Date	Sample Type	Lab Sample Ref Code
03/05/2007	(None)	
11/21/2005	Lab Urine Test	0080047064
11/03/2004	PBT	

Record 4 of 4

Specimen Date: 03/05/2007 Specimen Location: G. ROBERT COTTON CORRECTIONAL FA Prescription Drug:

Sample Type: Sample Taken Flag: Reason Sample Not Taken: (None)

Patch Length Of Wear: Admissions Completion Of Wear: (None) Removal Reason: (None)

Test Taker Type: Breathalyzer/PBT Employee: FROMSON, JOHN S Other: (None)

Testing Lab: Lab Urine Test Lab Sample Ref Code: Reason Tested: (None)

Notes: On-Site Saliva Test
On-Site Urine Test
Patch
PBT

Enter Sample Type

Drug Test Tab:

Field records entries for substances tested for, result and levels detected at.



Substance Abuse Test				Prescription Drug	Test Results	Drugs Tested																				
<p>Substance Abuse Tests</p> <table border="1"> <thead> <tr> <th>Specimen Date</th> <th>Sample Type</th> <th>Lab Sample Ref Code</th> <th>Overall Result</th> </tr> </thead> <tbody> <tr> <td>11/21/2005</td> <td>Lab Urine Test</td> <td>0080047064</td> <td>Negative</td> </tr> <tr> <td>11/03/2004</td> <td>PBT</td> <td></td> <td>Negative</td> </tr> <tr> <td>11/03/2004</td> <td>On-Site Urine Test</td> <td></td> <td>Negative</td> </tr> </tbody> </table>				Specimen Date	Sample Type	Lab Sample Ref Code	Overall Result	11/21/2005	Lab Urine Test	0080047064	Negative	11/03/2004	PBT		Negative	11/03/2004	On-Site Urine Test		Negative	<p>Drug List</p> <table border="1"> <thead> <tr> <th>Tested Drug Code</th> <th>Positive/ Negative</th> </tr> </thead> <tbody> <tr> <td>(None)</td> <td>(None)</td> </tr> </tbody> </table>			Tested Drug Code	Positive/ Negative	(None)	(None)
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Tested Drug Code	Positive/ Negative																									
(None)	(None)																									
<p>Record 1 of 1 Tested Drug Code: [Dropdown]</p> <p>Notes: [Text Area]</p> <p>Positive Negative: (None) Drug Level: .000 Drug Level Unit: (None)</p> <p>[Navigation Icons] Enter Tested Drug Code</p>																										

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Test Result Tab:

Tab records supervisor responses to offender positives. Tab also records overall result and reason for voided tests.



Specimen Date	Sample Type	Lab Sample Ref Code	Overall Result
11/21/2005	Lab Urine Test	0080047064	Void
11/03/2004	PBT		Negative
11/03/2004	On-Site Urine Te		Negative

Record 3 of 3

Specimen Date: 11/21/2005 Sample Type: Lab Urine Test Lab Sample Ref Code: 0080047064

Lab Test Date: 11/23/2005 Overall Result: Void Sample Void Reason: (None)

Misconduct Incident: [Dropdown] Test Result Create Date: 11/30/2005

Positive Response: (None) Positive Response Date: 00/00/0000

Notes: [Text Area]

Last Updated by LOAD on 11/30/2005 at 03:01:00 from LOAD20

Navigation: [Back] [Forward] [Enter Overall Result]

Specimen Date	Sample Type	Lab Sample Ref Code	Overall Result
11/21/2005	Lab Urine Test	0080047064	Void
11/03/2004	PBT		Negative
11/03/2004	On-Site Urine Te		Negative

Record 3 of 3

Specimen Date: 11/21/2005 Sample Type: Lab Urine Test Lab Sample Ref Code: 0080047064

Lab Test Date: 11/23/2005 Overall Result: Void Sample Void Reason: (None)

Misconduct Incident: [Dropdown] Test Result Create Date: 11/30/2005

Positive Response: (None) Positive Response Date: 00/00/0000

Notes: [Text Area]

Last Updated by LOAD on 11/30/2005 at 03:01:00 from LOAD20

Navigation: [Back] [Forward] [Enter Overall Result]

1.2 Roles and Responsibilities

1.201 Contractor Staff, Roles, and Responsibilities

The Contractor must have staff available to properly service the equipment used, provide training to staff on the use of these devices, and have staff available to provide expert testimony in the event results of these devices are used in parole or probation violation proceedings.

All Phamatech staff is located at 10151 Barnes Canyon Rd., San Diego, CA which is also the manufacturing location for drug-testing devices.

1.202 State Staff, Roles, and Responsibilities

The Contract Compliance Inspector will also serve as the Project Manager for the Michigan Department of Corrections Offender Drug Testing Program.



Contractor has not only a dedicated Account Manager for the State of Michigan but also a Laboratory Manager.

Account Manager: Dennis Hirsch

Laboratory Manager: Ken Kodama

1.203 Other Roles and Responsibilities - RESERVED

1.3 Project Plan

1.301 Project Plan Management

Project Control

The Contractor will carry out this project under the direction and control of the MDOC-SAS.

1.302 Reports

The Contract shall be required to submit monthly reports to the Contract Compliance Inspector. These reports shall include, at a minimum; Amount purchased by month and Year to Date, training provided or scheduled to occur, site visits performed by contractor staff, problems resolved or anticipated, and a general summary of activity for the month. These reports are due by the tenth of the month.

The contractor will work with the MDOC in order to provide all needed materials, assistance, and training.

1.4 Project Management

1.401 Issue Management

The Contractor should define the issue escalation process to include whether escalation will be based on age, severity, budget impact, etc. and where the escalation levels are. The Contractor should identify and explain any deviations from the proposed issue management process. If there is not an issue management process, then the Contractor should propose a standard issue management process for managing the project as part of its bid response. The Contractor should identify the issue management process to be utilized for this project, including responsible parties, phone numbers, email addresses if relevant, and processes.

1.402 Risk Management – RESERVED

1.403 Change Management

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



1.5 Acceptance

1.501 Criteria

See Section 2.080 Delivery and Acceptance of Deliverables.

1.502 Final Acceptance

Final Acceptance is when the project is completed and functions according to the requirements. Any intermediate acceptance of sub-Deliverables does not complete the requirement of Final Acceptance. Acceptance is tied to adequate performance of required Services and/or delivery of the Deliverables.

Phamatech agrees.

1.6 Compensation and Payment

1.601 Compensation and Payment

Contractor's policy is that MDOC shall pay all invoices from Contractor within thirty (30) days of date of such invoice.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 Additional Terms and Conditions Specific to this SOW

This Contract may require frequent contact with convicted felons currently under the jurisdiction of the Michigan Department of Corrections. Contract staff may have access to departmental databases and may be required to enter into correctional facilities or other State of Michigan buildings to meet with staff, conduct trainings or provide services.

Law Enforcement Information Network Searches (LEINS) shall be conducted on all contracted evaluation staff that provide direct evaluation services, handle offender records, have access to or analyze departmental data in CMIS and OMNI, or otherwise supervise staff that performs these duties. The form shall be completed at the Contractor's Agency and forwarded to the Contract Compliance Inspector. A LEIN inquiry shall be completed for each name listed and indicate whether the staff member is approved or denied to perform services under a Michigan Department of Corrections' contract. Staff will be approved if there is no evidence of a recent criminal history. Staff will be denied who have active warrants, are under criminal justice supervision, have been discharged from a felony sentence within the last 5 years or are required to register as a sex offender. Felony offenders shall not be approved until they have been discharged from all sentences, including parole and probation supervision terms, for minimum period of 5 years. After each staff member has been approved or denied, the Contract Compliance Inspector shall forward the decision to the Contractor.

The Contractor is responsible for ensuring that all necessary authorizations/releases are obtained from their employees before releasing this information to the Michigan Department of Corrections and subsequent applicable Law Enforcement Agency. In signing this form, the staff member agrees that any information obtained from the LEIN inquiry may be shared with the appropriate Law Enforcement Agency and with the Contractor.

*Note: This does not apply to Contractor due to lack of any "contracted evaluation staff that provide direct evaluation services, handle offender records, have access to or analyze departmental data in CMIS and OMNI, or otherwise supervise staff that performs these duties".

The State may decide to also perform a security background check on anyone at any time.



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

In addition, Act Number 431 of the Public Acts of 1984 permits the State of Michigan, Department of Management and Budget, to provide purchasing services to any city, village, county, township, school district, intermediate school district, and nonprofit hospital, institution of higher learning, or community or junior colleges. As a result of the enactment of this legislation, the Extended Purchasing Program has been developed. This program extends the use of State contracts to program members. It is the desire of the State of Michigan that this contract be included in the Extended Purchasing Program. Please refer to Section 3.006 of this ITB for further information regarding this program.



Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

The purpose of this Contract is to obtain onsite instant drug testing kits. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form. Bids are due and will be publicly identified at the time noted on the Invitation to Bid (ITB) Form.

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 hereinafter known as Department of Corrections. Where actions are a combination of those of Purchasing Operations and the State agencies, 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, and 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: Irene Pena, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) 241-1647
Penai1@michigan.gov

2.003 NOTICE

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



2.004 CONTRACT TERM

The term of this Contract will be for three (3) years and will commence with the issuance of a Contract. This will be approximately 11/01/2008 through 10/31/2011.

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 the Contractor within 30 days, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government 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, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

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

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

MI OSHA MCL §§ 408.1001 – 408.1094

Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.

Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.

MI Consumer Protection Act MCL §§ 445.901 – 445.922

Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.

Department of Civil Service Rules and regulations

Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.

Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.

MCL §§ 423.321, et seq.

MCL § 18.1264 (law regarding debarment)

Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.

Contract Work Hours and Safety Standards Act (CWHSA) 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. The 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 the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.



2.1 Vendor/Contractor Obligations

2.101 ACCOUNTING RECORDS

The Contractor and all 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.

MDOC shall have the right, during normal business hours and with reasonable advance notice during the term of this Agreement, to review Contractor's books, documents, and records that pertain directly to the fees payable to Contractor under this Agreement for the twelve (12) month calendar period immediately preceding the audit. The audit may be conducted only by an external auditing firm selected by MDOC which does not have another relationship with MDOC. The cost of the audit shall be paid by MDOC. MDOC agrees that its routine audits will not be conducted more frequently than one (1) time in any consecutive twelve (12) month period, subject to MDOC's right to conduct special audits when it deems it to be necessary.

2.102 NOTIFICATION OF OWNERSHIP

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Purchasing Operations within 45 days.
2. The Contractor shall also notify the Purchasing Operations within 45 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide 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 SOFTWARE COMPLIANCE

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



The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.104 LIABILITY INSURANCE

A. Insurance

The 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.

The 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, the 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 CANCELED, MATERIALLY CHANGED, OR NOT RENEWED without



THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

- 1. Commercial General Liability with the following minimum coverage:
 - \$2,000,000 General Aggregate Limit other than Products/Completed Operations
 - \$2,000,000 Products/Completed Operations Aggregate Limit
 - \$1,000,000 Personal & Advertising Injury Limit
 - \$1,000,000 Each Occurrence Limit
 - \$500,000 Fire Damage Limit (any one fire)

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

- 2. If a motor vehicle is used to provide services or products under this Contract, the 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.

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

- 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the 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.

The 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.

- 4. Employers liability insurance with the following minimum limits:
 - \$100,000 each accident
 - \$100,000 each employee by disease
 - \$500,000 aggregate disease



- 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of 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 the 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 insured's, 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.

2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE) - 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.

The 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 the 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 the Contractor during the course of the work and preserved for a period of 3 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.



The 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.

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

The 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 the Contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the 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.

Contractor has three years of history on employees regarding wages and deductions, etc. Contractor also has hours of work for non-exempt employees, however, Contractor does not track hours worked for exempt employees.

2.108 COMPETITION IN SUB-CONTRACTING

The 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

Vendor 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.

2.110 WORKPLACE DISCRIMINATION

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the 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. The 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.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or 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.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.



2.111 LABOR RELATIONS

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

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

2.202 CONTRACT PAYMENT SCHEDULE

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

2.203 POSSIBLE PROGRESS PAYMENTS - RESERVED

2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered) - RESERVED

2.205 ELECTRONIC PAYMENT REQUIREMENT

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

2.206 PERFORMANCE OF WORK BY CONTRACTOR - RESERVED

2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

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



2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from 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 the Contractor to replace subcontractors found to be unacceptable. The 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

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

The 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 bidder provided in the bid.

2.304 TAXES

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

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

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

2.305 INDEMNIFICATION

General Indemnification

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



1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) actions of the product provided that are inconsistent with the manufacturers specifications or (2) performance that is negligent or wrongful of the work, duties, responsibilities, actions or omissions of the 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 an uncured breach by the Contractor of any representation or warranty made by the 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 the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the negligent or wrongful performance of services by the 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 a negligent or wrongful act or omission of the 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, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its 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 the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.



Code Indemnification

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

Indemnification Obligation Not Limited

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

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

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

2.307 CONTRACT DISTRIBUTION

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

2.308 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 meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

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



2.310 PURCHASING FROM OTHER STATE AGENCIES

State agencies are exempt from utilizing the resulting Contract if they would instead prefer to purchase similar items from the following State agencies:

- Michigan State Industries (MSI), which provides valuable training opportunities for inmates at State correctional facilities.
- Department of Management and Budget, Print and Graphics Services

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, the Contractor must provide for up to 60 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 the 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 the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at 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:

Thomas R. Combs, Manager
Substance Abuse Services Program
Michigan Department of Corrections
206 E. Michigan Avenue
P. O. Box 30003
Lansing, MI 48909



2.402 PERFORMANCE REVIEWS

Purchasing Operations in conjunction with the Department of Corrections may review with the 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, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Purchasing Operations, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

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

MDOC shall have the right, during normal business hours and with reasonable advance notice during the term of this Agreement, to review Contractor's books, documents, and records that pertain directly to the fees payable to Contractor under this Agreement for the twelve (12) month calendar period immediately preceding the audit. The audit may be conducted only by an external auditing firm selected by MDOC which does not have another relationship with MDOC. The cost of the audit shall be paid by MDOC. MDOC agrees that its routine audits will not be conducted more frequently than one (1) time in any consecutive twelve (12) month period, subject to MDOC's right to conduct special audits when it deems it to be necessary.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the 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, the Contractor shall be responsible for:

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



Phamatech Laboratory - R&D Program

Technology is changing the way the drug testing industry reacts to consumer needs and demands. Therefore, to stay ahead of competitors, and continue to deliver the best the industry has to offer in drug testing diagnostics, Phamatech has prepared to embrace the so-called "scientific revolution" and explore ways to extend our organization's reach.

Phamatech currently performs varieties of innovative applications to advance and develop technologies related to Drug Testing Diagnostics. Phamatech's active research and development program ensures that we offer the latest in cutting-edge technology. Dr. Thomas G. Aucoin, head of Laboratory Operations, is has written countless technical and scientific publications.

Creative thinking is the driving force behind innovation and quality. Phamatech promotes an environment of creativity and open communication, which has rewarded us recently with the innovation of the first-ever FDA-cleared AT HOME DRUG TEST. On October 16, 1998, Phamatech revolutionized drug testing with the announcement that we received FDA-clearance on the United States first over-the-counter drug test. Since 1994, Phamatech has focused on increasing sales of our own brand-name products, building a strong foundation for continued growth and brand equity worldwide. Our accomplishments are not simply attributable to genius leadership or dedicated hardworking employees. We grew and prospered because we found great partners and distributors who have given loyal support along the way.

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, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

Siemens warrants that the Equipment and Consumables shall be free from defects in material and workmanship and conform to the manufacturer's specifications when delivered. The State must use all products in accordance with the instructions and manufacturer's specifications.

2.504 GENERAL WARRANTIES (goods)

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

Phamatech warrants that all products have been approved and are in compliance with all governing laws, rules and regulations of the U.S. Food and Drug Administration for over-the-counter, clinical, or professional sales. Phamatech further warrants that any shipment or other delivery now or hereafter will not be misbranded or adulterated with the meaning of the Federal Food, Drug and Cosmetics Act. Phamatech warrants that so long as the products are used according to Phamatech's specifications, they shall be merchantable and fit for their intended purposes.

**RETURN GOODS POLICY**

Phamatech will accept the return of any goods for any reason within 30 days of the original order with a 15% Restocking Fee. After 30 days from the original Purchase Order Date, Phamatech will only accept return of goods that fail to perform according to published specifications. In such cases, no restocking fee shall apply. All return orders must first be authorized on Phamatech's Return Authorization Form.

EXPIRED GOODS POLICY

Phamatech's I-Vitro Diagnostic Products will function as specified for a period of eighteen (18) months from the date of manufacture, unless otherwise specified. Sticking and inventory practices of Phamatech may place product in the possession of the end-user with less than eighteen (18) months usability. Expired goods under these circumstances are the property of the buyer and may not be returned for credit.

SERVICE POLICY

Phamatech maintains qualified Technicians and Customer Service representatives to provide product support. Customer service is available from 8:00am to 5:00pm Pacific Standard Time. Phamatech personnel are available to assist customers with any product issue. Technical documents on all Phamatech products are available to all buyers. Phamatech and NTL agree to be accessible to the department between the hours of 7:00 AM (CST/CDT) and 5:00 PM (CST/CDT), Monday through Friday.

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 a 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 the 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 a reasonable time 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, is 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 STAFF - RESERVED

2.507 RESERVED

2.508 EQUIPMENT WARRANTY - RESERVED

2.509 RESERVED



2.6 Breach of Contract

2.601 BREACH DEFINED

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

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

2.602 NOTICE AND THE RIGHT TO CURE

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

2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under 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 the Contractor. In the event that the 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 the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event 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 canceled.

In the event this Contract is canceled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in 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 the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are canceled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.



4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or 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 the Contractor's business integrity.
5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.702 RIGHTS UPON CANCELLATION

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 60 days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates identified within this Contract agreement.

2.703 LIQUIDATED DAMAGES - RESERVED

2.704 STOP WORK - RESERVED

2.705 SUSPENSION OF WORK

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:



- (1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
- (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

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 TIME EXTENTIONS

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

2.803 MODIFICATION

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 vendor. The item(s) may be included on the Contract, only if prior written approval has been granted by Purchasing Operations.

2.804 AUDIT AND RECORDS UPON MODIFICATION

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

Data may include accounting records, and other information mutually agreed upon by the parties to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the contractor's records, including computations and projections, related to:



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

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

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

MDOC shall have the right, during normal business hours and with reasonable advance notice during the term of this Agreement, to review Contractor's books, documents, and records that pertain directly to the fees payable to Contractor under this Agreement for the twelve (12) month calendar period immediately preceding the audit. The audit may be conducted only by an external auditing firm selected by MDOC which does not have another relationship with MDOC. The cost of the audit shall be paid by MDOC. MDOC agrees that its routine audits will not be conducted more frequently than one (1) time in any consecutive twelve (12) month period, subject to MDOC's right to conduct special audits when it deems it to be necessary.

2.805 CHANGES

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
 - (1) ;
 - (2) In the method or manner of performance of the work;
 - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
 - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
 - (1) The date, circumstances, and source of the order; and
 - (2) That the Contractor regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.



Proposal Pricing (any drug)

	Dip Stick (25 per box)	Dip Stick Kit (w/cup) (50 per case)	Integrated Cup (25 per case)
	Bid Price (each)	Bid Price (each)	Bid Price (each)
Single-Panel (1 drug screen)	\$0.40	\$0.55 --	
Two-Panel (2 drug screens)	\$0.85	\$1.00 --	
Three-Panel (3 drug screens)	\$1.10	\$1.25	\$1.65
Five-Panel (5 drug screens)	\$1.60	\$1.75	\$2.10

Quick Payment Terms: Not Available

Price Term: Not Available