



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management and Budget  
 525 W. Allegan St., Lansing, MI 48933  
 PO Box 30026 Lansing, MI 48909

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **190000000247**

between  
 THE STATE OF MICHIGAN  
 and

<b>CONTRACTOR</b>	Perry Johnson & Associates, Inc
	755 W. Big Beaver Rd, Suite 1300
	Troy, MI 48084
	Jeffrey R. Hubbard
	1-800-803-6330 ext. 5141
	jhubbard@pjats.com
	VS0014991

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Flores 517-249-0452 floresc@michigan.gov	DTMB

<b>CONTRACT SUMMARY</b>			
<b>DESCRIPTION: Legal Transcription Services - Statewide</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
12/12/2018	12/11/2023	3 – 1 Year	12/11/2023
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
<b>THIS IS NOT AN ORDER: This Contract Agreement is awarded on the bases of our inquiry bearing the solicitation #180000003361. Orders for delivery will be issued through a Delivery Order.</b>			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$857,739.10</b>

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**Program Managers for  
Multi-Agency and Statewide  
Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
LARA	Shay Gaffey	517-335-1971	Gaffeys@michigan.gov
MDOS	Melissa Noll	517-241-3463	Nollm1@michigan.gov

**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**Company Name**

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

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

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Courtney Flores, Category Analyst**  
\_\_\_\_\_  
Name & Title

**DTMB Procurement**  
\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Perry Johnson & Associates, Inc (“**Contractor**”), a Nevada Corporation. This Contract is effective on December 12, 2018 (“**Effective Date**”), and unless terminated, expires on December 11, 2023.

This Contract may be renewed for up to 3 additional 1 year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.]

The parties agree as follows:

1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

2. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Courtney Flores 525 W Allegan St Lansing, MI 48909 floresc@michigan.gov 517-249-0452	Shaun Doty 755 W. Big Beaver Rd, Suite 1300 Troy, MI 48084 sdoty@pjats.com 1-800-803-6330 ext. 5131

	Brittany Larson 755 W. Big Beaver Rd, Suite 1300 Troy, MI 48084 blarson@pjats.com 1-800-803-6330 ext. 5140
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3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State: Courtney Flores 525 W Allegan St Lansing, MI 48909 floresc@michigan.gov 517-249-0452	Contractor: Jeffrey R. Hubbard 755 W. Big Beaver Rd, Suite 1300 Troy, MI 48084 jhubbard@pjats.com 1-800-803-6330 ext. 5141
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State: Shay Gaffey Department of Licensing and Regulatory Affairs gaffeys@michigan.gov 517-335-1971  Melissa Noll Michigan Department of State Nollm1@michigan.gov 517-241-3463	Contractor: Shaun Doty 755 W. Big Beaver Rd, Suite 1300 Troy, MI 48084 sdoty@pjats.com 1-800-803-6330 ext. 5131  Brittany Larson 755 W. Big Beaver Rd, Suite 1300 Troy, MI 48084 blarson@pjats.com 1-800-803-6330 ext. 5140
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations  <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
<b>Automobile Liability Insurance</b>	

<u>Minimal Limits:</u> If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.	Contractor must have their policy include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
<b>Privacy and Security Liability (Cyber Liability) Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate  <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

- Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and

authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget  
Cashiering  
P.O. Box 30681  
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

8. **Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal). Upon written agreement between the State and Contractor, this contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities

under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section **Error! Reference source not found.**, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.
18. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

19. **Reserved.**

20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.



The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section **Error! Reference source not found.**, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity,

agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages.** **IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 30. Reserved.**
- 31. State Data.**

- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days

of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. This section survives termination or expiration of this Contract.

**32. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

**33. Data Privacy and Information Security.**

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

**34. Reserved.**

**35. Reserved.**

- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide

reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section **Error! Reference source not found.**, Termination for Cause.
- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. Reserved.**
- 41. Reserved.**
- 42. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially

reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

- 47. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

- 48. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 49. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 50. Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and expressly incorporated schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 51. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 52. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 53. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 54. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "Contract Change Notice"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

# STATE OF MICHIGAN

Contract No. 190000000247  
Legal Transcription Services - Statewide

## SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

### BACKGROUND

The State of Michigan is seeking a Contractor(s) to provide Statewide services to convert speech; either live or recorded, into written or electronic text document for use by all State Agencies. Additionally, the State reserves the right to request transcription services not initially requested.

THE FOLLOWING ARE THE TURN AROUND TIMES FOR TRANSCRIPTION SERVICES:

- **LEGAL / 10 BUSINESS DAYS**

DUE TO THE SENSITIVE NATURE OF THE INFORMATION DISSEMINATED AS PART OF THIS CONTRACT, ALL TRANSCRIPTION SERVICES MUST BE DONE IN THE U.S.A., PREFERABLY IN MICHIGAN.

The volume of business is dependent upon the budget appropriations and the needs of the various State agencies. The State is not obligated to guarantee any specific expenditure. Below is a list of locations, the State may request services at other locations not listed below.

#### 1. Michigan Department of Licensing & Regulatory Affairs (LARA)

The Michigan Administrative Hearing System (MAHS) is staffed by over 100 Administrative Law Judges (ALJs) who preside over primary and remanded administrative law hearings for 30 various state bureaus/agencies. MAHS has approximately 55 permanent hearings rooms. In addition, as required, MAHS ALJs travel to numerous non-permanent locations around the state to conduct hearings.

The ALJs conduct these hearings under a variety of legal requirements, including, but not limited to, the Code of Federal Regulations, the Michigan Administrative Procedures Act, the Michigan Employment Securities Act, and other federal and state acts covering a variety of issues, including, but not limited to, social welfare, public health, mental health, agriculture, education, building construction & codes, insurance, State retirement system, transportation and highways, MIOSHA, mobile homes, licensing & regulation of occupational codes, public service, securities, wage & hour, employment relations, Public Employment Relations Act.

In most cases, permanent hearing rooms are equipped with either video or audio recording equipment. Transcripts are often required for audio and/or video tapes on an as needed basis. Disputed questions of fact may be resolved by the ALJ based upon the transcript; thus, the transcript must be accurate and completely verbatim.

Contractor must complete documents as follows:

1. Contractor must review the list of cases against the files actually in the folder and confirm that all cases listed are actually available. If there is any discrepancy between the list and files actually picked up, the Contractor must immediately contact MAHS at 517-284-9326 and record on the list the date and time the contact was made.
2. Contractor must log files received into the Contractor's database and record the date each transcript is due to the Michigan Compensation Appellate Commission (Appellate Commission) in Lansing.
3. Transcripts must be delivered to the Appellate Commission on or before 10 business days from the date the file is picked up by the Contractor. The Contractor must deliver finished transcripts along with each file before 4:45 p.m. If transcripts are being delivered to the Appellate Commission later than 10 business days from the date the Contractor receives the file, Procurement shall provide the Contractor written notice of the late transcripts and a time period to cure the breach.



4. The Appellate Commission will fax to the Contractor once per week a list of cases pending for 15 business days or more from the time the Commission requests a transcript from MAHS. If there are cases on the list that the Contractor does not have, the Contractor shall immediately contact MAHS at 517-284-9326 or 517-335-3229.
5. For transcripts regarding Michigan Employment Relations Commission (MERC) cases the Contractor must contact MERC at 313-456-3526.

Contractor's Plan:

1. The Contractor will have an assigned resource dedicated to this segment of the services requested in this Contract. This resource will take the lead on confirming that the list of cases and transcripts match up accordingly for each given date. In the chance there is any discrepancy found, the team lead for this section will reach out to MAHS for clarification and to request the missing case file be provided.
2. The Contractor's system for transcribing documents has a built in reporting feature that automatically records the date and time the request within the system, called GEMS. This information can be accessible for employees of the State if so requested. Each State employee will be granted a unique username and password to access the system, in which they can monitor the status of reports, if needed.
3. The Contractor is located within the State of Michigan, the delivery of reports will not present any issues that may be encountered by contractors located outside Michigan. This also means that the information will never cross state lines. Deliveries will be made by both Contractor employees and certified legal courier companies.
4. The Contractor's dedicated resource will check and double-check this list each time it comes through fax and if there are any discrepancies, the Contractor will immediately contact the necessary resource with the State to re-request that specific report.
5. The Contractor will establish a contact within MERC that will be a point of contact (POC) for these transcript requests.

2. Michigan Department of State (MDOS)

The Michigan Department of State has approximately 40 offices that conduct administrative hearings, which upon written request, require the making of a permanent record from an audio tape or digital recording of the hearing or a fatal re-examination pursuant to the Driver License promulgated rules, *R257.314* and for circuit court appeals pursuant to the Michigan Vehicle Code, *MCL 257.323*.

Contractor must complete documents as follows:

1. Upon email notification, the Contractor will log in to the MDOS Driver Appeal Integrated System (DAIS) and retrieve audio files for transcription or upon arrangement made upon a special request.
2. Transcripts must be uploaded to the MDOS DAIS. Normal requests within 10 business days or for expedited requests within one to three business days.
3. If the Contractor finds that a recording is inaudible, the Contractor must return it and file to MDOS with a note of the issue, MDOS will then verify that the recording is inaudible. If the recording is audible, the Contractor will be contacted to download the recording and prepare a transcript.
4. Transcriptions must follow the format prescribed by the State Court Administrative Office as published in the Court Reporters Manual.

Contractor's Plan:

1. The Contractor's dedicated legal transcription resource will be trained on the MDOS system and will retrieve and assign the request to one of the transcription team members. The Contractor's dedicated resource will track the progress of the transcript.
2. Once the report has been completed, the Contractor's dedicated resource will upload the completed transcript to the MDOS DAIS. The Contractor will comply with the required turnaround times.
3. The Contractor will contact MDOS with any issues found in audio recordings to the appropriate POC.
4. The Contractor's transcriptionists will follow all formatting guidelines as established by the State Court Administrative Office.

3. Michigan Gaming Control Board (MGCB)

The MGCB, Licensing Division conducts background investigations of companies and individuals that apply for either a casino or supplier license. Personal interviews, taken as part of sworn testimony, are an essential part of the standard investigative protocol. The interviews must be recorded, transcribed, and stored with the applicant's

investigative file. If needed, the original tape recording and related transcription may be used by MGCB staff in a variety of legal proceedings.

## **SCOPE**

This Contract is for a Contractor to provide statewide Legal Transcription Services (hereinafter indicated as Transcription Services). The Contractor must provide accurate and timely Transcription Services, on an as needed basis for any State Agency requesting the services. Additionally, attest to the accuracy of transcript or completed documents by certifying same, as required, pursuant to applicable Michigan Court Rules or other requirement.

### **1. Requirements**

#### **1.1. General Requirements**

Contractor must provide Transcription services, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the Statement of Works.

The work and deliverables shall include, but are not limited to the following:

- A. Contractor must transcribe, format and correct submitted dictation, or perform any combination of these duties as requested.
- B. Contractor must provide Transcription services within designated timeframe of requesting State agencies and re-prioritize work as necessary due to possible emergencies without incurring delays or sacrificing accuracy.

#### Contractor's Plan:

The Contractor will work with each specific State Agency to ensure timeframes are met. If there are cases where a rush request comes in and there are not available transcriptionists, the team lead of that transcriptionist team will evaluate the types of requests currently being worked on and prioritization of resources will occur to ensure that all open requests still meet the requirements laid forth in this Contract.

To start, the Contractor would have 20 certified legal transcriptionists assigned to this Contract. If the need arose for more, the Contractor has an additional 30 that could be assigned to this Contract in the event that monthly volumes increase from the original estimation in the pricing matrix.

- C. Contractor must provide a phase and key word index with each transcript if requested.
- D. Contractor must transcribe rapidly and accurately preparing clear, timely, accurate documents. Additionally, Contractor will provide original transcript along with agency desired number of copies (an agency may elect to receive only an original and no copies). State Agencies may request hard copies, electronic copies, or a combination thereof. Agencies may require ability to share files.

#### Contractor's Plan:

The Contractor guarantees 99.1% accuracy and 99% turnaround time met on all transcripts provided. After completion of a transcript, the Contractor will provide copies if requested, being either electronic, hard, or both.

- E. Contractor understands all files, tapes, recordings and transcripts are the property of the soliciting State agency. No duplicates or copies, except as approved by the soliciting State agency, can be made by the Contractor.

#### Contractor's Plan:

The Contractor has security and data protection processes and policies that are signed by each employee. Any audio that is uploaded into GEMS will be encrypted and this will prevent duplication or exporting from the system.

- F. Contractor must provide a secure means of returning transcribed reports based on State agencies desired method of transmittal. Agreed upon alternate form of transmission must be available in event of connectivity failure or other transmission problems. If reports are sent via e-mail or other electronic means, transmissions must be encrypted to ensure security of protected health information in accordance with HIPAA requirements.

#### Contractor's Plan:

The Contractor will email reports through an internet encrypted email services setup through services such as Cisco Registered Envelope Services.

The Contractor will have Cisco Registered Envelope Services established and running within two weeks of effective date of the contract and would utilize this service exclusively for all confidential communication after the execution of the contract. This service would come at no additional cost to the State.

The Contractor will setup a secured File Transfer Protocol (SFTP) site where State employees can 'drop' files into a folder and the Contractor's system will automatically pull the audio into GEMS, the Contractor's transcription platform, to be transcribed.

GEMS is an all-in-one, web-based document management platform that allows users with granted access to view, listen, edit, print, download and fax reports that have been dictated or audio has been uploaded. Only users with a unique username and password will be able to access the system, and must have an internet connection to do so. Access to this software application would come at no additional cost to the State.

Each agency will be setup with their own unique SFTP site where files will be uploaded. This ensures that each agency's audio files will never be stored or be accessible together, and only authorized users from a specific agency will be able to access transcripts and audio files for their approved agency.

For example – User A will not have access to the files (both audio and transcripts) that were uploaded from User B and vice versa.

The SFTP site will be an ultra-secure means of data transmission that relies on SSH for security of transferred audio files. This will act as a secured tunnel between each agency and the Contractor. Users will have the launcher application on their desktop and will need to login using a unique username and password. Files will then be dropped into the SFTP program by the user and a software application built into GEMS, called Onyx, will automatically grab the new files from the SFTP folder and upload them into GEMS. The uploaded files will be deleted from the SFTP folder once they are successfully pulled into GEMS.

- G. Contractor must understand and apply correct English grammar, spelling and punctuation skills.
- H. Contractor must use and understand accepted abbreviations, specialized terminology including medical, psychiatric, psychological testing, legal terms, educational and any other terms required by State agencies.
- I. If any corrections (regardless of the work type) are required, they shall be completed within 24 hours, unless otherwise indicated by State agency. Contractor will not bill agency for agency formats (templates).
- J. Contractor must have necessary equipment/resources to provide complete and accurate service required.
- K. Contractor must preserve all transcribed reports on CD or similar technology for a period of 12 months from the date of the report completion.

Contractor's Plan:

The Contractor's platform GEMS will store audio and transcripts for a determined amount of time as required by the State. Each type can be stored at different increments. The Contractor will store all audio and transcripts for a period of 12 months.

- L. Contractor must comply with all provisions of any legislative changes or administrative rule changes enacted or adopted during the term of the Contract, which affect standard paragraphs used in transcribed documents. At the direction of the State agencies, Contractor will make the necessary changes to these standard paragraphs which will then be utilized by the State agencies.

- M. Contractor must respond in an appropriate, positive and effective manner to corrective feedback provided by State agencies.
- N. If Contractor finds that a recording is inaudible, the Contractor shall send the recording to the appropriate agency location, who will verify that the recording is inaudible. If the recording is audible, the Contractor will be contacted to download the recording and prepare a transcript.
- O. Contractor must provide the completed transcript in either electronic (word, PDF, PDX or CD) or printed format depending on the specifications of the requestor. Condensed Transcript (Minu-Script) must only be provided when requested.
- P. Contractor must complete and format all documents as defined by requesting State agencies and Program Managers.
- Q. Contractor must perform all services in the United States; additionally, State data must not reside outside the continental United States.

### **1.2. Legal Transcription Services Requirements**

The work and deliverables shall include, but are not limited to the following:

- A. Contractor for Legal Transcription must have a staff member pick up the cassette tape or CD from the State agencies or specified location and accurately transcribe, format and correct submitted dictation, or perform any combination of these duties as requested. Any electronically stored files or recording will be password encrypted. Any breaches of confidentiality must be reported to the State of Michigan Department of Technology, Management and Budget immediately.

#### Contractor's Plan:

The Contractor will have necessary staff members available to pick-up audio files from the determined locations to be transcribed. Passwords will be provided between the Agency and the Contractor to ensure audio files are properly protected and secure. In the off-chance there was ever a breach in security, the Contractor will immediately contact the State and a proper course of action will be taken to remedy the situation, as well as prevent the issue from happening again.

- B. Only certified reporters and recorders may record or prepare transcripts of proceedings held in Michigan courts or of depositions taken in Michigan as regulated by Michigan Court Rule 8.108(G). Contractor must have all legal transcripts prepared by a Certified Transcriptionists only, holding Certified Electronic Recorder (CER), Certified Stenographic Reporter (CSR), or Certified Stenomask Reporter (CSMR) certifications that have been accomplished through a testing process administered by the Court Reporting and Recording Board of Review through the assistance of the State Court Administrative Office. Certified Machine Operators (CEO) are not authorized to produce official transcripts. Additionally, certifications must be renewed annually. Any violation of these terms may lead to Contract termination.
- C. The Contractor's firm must be registered with The State Court Administrative Office ("SCAO") pursuant to MCL 600.1492(2).

## **2. Acceptance –**

### **2.1. Acceptance, Inspection and Testing**

The State will use the following criteria to determine acceptance of the Contract Activities provided under this SOW: see Standard Contract Terms, Section 16.

## **3. Staffing –**

### **3.1. Contractor Representative**

The Contractor must appoint one individual, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative"). The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

Contractor Representatives:  
Shaun Doty  
755 W. Big Beaver Rd, Suite 1300  
Troy, MI 48084  
sdoty@pjats.com  
1-800-803-6330 ext. 5131

Brittany Larson  
755 W. Big Beaver Rd, Suite 1300  
Troy, MI 48084  
blarson@pjats.com  
1-800-803-6330 ext. 5140

### **3.2. Customer Service Toll-Free Number**

The Contractor must specify its toll-free number for the State to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8 am to 5 pm ET.

Contractor's Customer Service Toll-Free Number:

(800) 803-6330

### **3.3. Work Hours**

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 8:00 a.m. to 5:00 p.m. ET, and possible night and weekend hours depending on the requirements of the project.

### **3.4. Contractor Staff General Requirements**

- A. All personnel employed or sub-contracted by the Contractor must abide by any applicable confidentiality policies and HIPAA requirements. Contractor is responsible for implementing and monitoring this.
- B. Contractor must:
  - 1. Be accessible to State agencies during all business hours covered by the Contract period to permit communications.
  - 2. Guarantee that the required number of transcriptionists shall be assigned and available to State agencies.
  - 3. Perform under stressful conditions such as transcription of long and often difficult reports dealing with legal and mental health concepts, heavy workloads and deadlines.
- C. Contractor must:
  - 1. Protect the confidentiality of all information provided by the state agencies and be HIPAA compliant.
  - 2. Adhere to standards for maintaining privileged and confidential communications, as required by any applicable codes and/or policies.
- D. Contractor must guarantee:
  - 1. If a State agency orders the original, the original rate will be paid. If another State agency orders the same transcript, they will pay the copy rate.
  - 2. Returning phone calls within twenty-four hours is a requirement. The phone number, contact name and email addresses must always be kept up-to-date.

### **3.5. Key Personnel, Roles and Responsibilities – LEGAL Transcription Services**

#### **A. MANDATORY MINIMUM REQUIREMENTS – LEGAL TRANSCRIPTION ONLY**

- 1. The Contractor must provide Legal Transcriptionist's certificate number. Only certified reporters and recorders may record or prepare transcripts of proceedings held in Michigan courts or of depositions taken in Michigan as regulated by Michigan Court Rule 8.108(G). Transcriptionists must possess one of the following certificates issued by the Michigan State Court Administrative Office:

- a. Certified Electronic Recorder (CER),
- b. Certified Stenographic Reporter (CSR),
- c. Certified Stenomask Reporter (CSMR)

<b>LEGAL Transcriptionist</b>					
Last Name	First Name	City	State	Certificate Type	Certificate #
Coleman	Sherrayna	Detroit	MI	CSR	6485
Foster	Rhonda	Detroit	MI	CSR	3612
Rice	Sheila	Detroit	MI	CSR	4163
Storm	Monica	Detroit	MI	CSR	4460
Steenbergh	Laura	Detroit	MI	CSR	3707
Hanson-Pierson	Lynda	Detroit	MI	CSR	5476

- 2. The Contractor must provide their Firm's certificate number issued by the Michigan State Court Administrative Office pursuant to MCL 600.1492(2).

<b>LEGAL Firm</b>				
Firm Name	Contact Full Name	City	State	Certificate #
Perry Johnson & Associates, Inc.	Jeffrey R. Hubbard	Troy	MI	8579

- B. The Key Personnel for this Contract will be the **Legal Transcriptionist**. The Contractor must provide and maintain sufficient transcription staff to satisfy transcription demand within the State of Michigan. The Contractor must provide the State with chronological resumes, documenting all previous transcription experience. Contractor shall submit a list of all personnel, including subcontractors, along with their type of certification and certificate number which will be providing services under this Contract.
  - 1. Describing in detail their roles and responsibilities, including any special skills needed. Descriptions of roles should be functional and not just by title. A job description must be included in your response for each role.
  - 2. Identifying where staff will be physically located during Contract performance.
  - 3. Transcriptionists must have at least three years of experience as a CER, CSR, or CSMR.
  - 4. Identifying any fulltime (FT), part time (PT), temporary (T) or subcontracted (Sub) personnel.

**Key Personnel Table – Legal**

Position	Name	Role(s) / Responsibilities	FT/PT/T/Sub	Physical Location (City and State)	Type of Transcription Certification and Certificate Number
<u>Manager</u>	<u>Brittany Larson</u>	<u>Operations Manager</u>	<u>FT</u>	<u>Troy, MI</u>	<u>N/A</u>
<u>CSR</u>	<u>Sherrayna Coleman</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 6485</u>
<u>CSR</u>	<u>Rhonda Foster</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 3612</u>
<u>CSR</u>	<u>Sheila Rice</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 4163</u>
<u>CSR</u>	<u>Monica Storm</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 4460</u>
<u>CSR</u>	<u>Laura Steenbergh</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 3707</u>
<u>CSR</u>	<u>Lynda Hanson-Pierson</u>	<u>Certified Stenographic Reporter</u>	<u>FT</u>	<u>Detroit, MI</u>	<u>CSR 5476</u>

**3.6. Disclosure of Subcontractors –**

No subcontractors will be used.

**4. Security –**

The Contractor will be subject the following security procedures:

- A. Security Breach Notification

1. If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 5 calendar days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.
- B. Protection and Destruction of Confidential Information
1. The State and Contractor must each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication, or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party must limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access to fulfill the purposes of the Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under the Contract, (B) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect the Confidential Information from unauthorized use or disclosure. Promptly upon termination or cancellation of this Contract for any reason, Contractor must certify to the State that Contractor has destroyed all State Confidential Information.
- C. Additional Security Measures in place to ensure the security of State facilities. The Contractor's staff may be required to make deliveries to or enter State facilities.

Contractor's Plan:

The Contractor will provide all necessary background checks and will work with the State to have State issued ID badges issued to all necessary Contractor personnel who may be needing access to State buildings. The Contractor will have the appropriate background checks performed on any employee who will be deemed necessary to enter the State offices. The Contractor will be utilizing Advanced Surveillance Group for any and all background checks.

**5. Project Management –**

Contractor will carry out work request under the direction and control of the using State agency.

Although there will be continuous liaison with the Contractor team, the State agency's Program Manager will meet periodically with the Contractor's Contract Representative, for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

**5.1. Reporting, Invoices & Payment –**

- A. Contractor must provide reports, log of reports, etc. with all requested information per frequency of requesting State agency.
- B. Contractor must provide detailed billing for reconciliation. Invoices to include State agency specified information and will be sent to State agency specified location per State agency specified frequency. All invoices submitted to the State must include: (a) date; (b) Delivery Order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) full name of transcriptionist; (g) location where the transcription was performed; and (h) total price. Overtime, holiday pay, and travel expenses will not be paid.

**C. Legal Transcription:**

Contractor must submit quarterly detailed invoices of all transcription work performed to the Contract Administrator that includes:

1. Date;
2. Master Agreement (MA)/Contract Number;
3. Delivery Order (DO) Number;
4. Full Name of Transcriptionist;
5. Location where the transcription was performed;
6. Transcription Description;
7. Number of Pages;
8. Rate Per Page, Transcript, or CD;
9. Total charge for transcription;
10. Name of requestor.

## **5.2. Payment Methods**

The State will make payment for Contract Activities via electronic funds transfer (EFT).

## **5.3. Ordering**

The appropriate authorizing document for the Contract will be a signed Master Agreement (MA) as well as an agency issued Delivery Order (DO).

## **6. Liquidated Damages**

Liquidated damages will be charged in case (s) of late transcripts, inaccuracy of typed text, lost files, duplicate billings. Liquidated damages:

- A. Fifty percent reduction in price for late transcripts and in accuracy of text. Lost files would result in the Contractor being responsible for all costs associated with rescheduling hearings or cover the cost of a substitute reporter.
- B. In case of duplicate billings, the Contractor would pay an administrative fee of \$50.00.

## **7. IT Specific Standards**

### **7.1. IT Policies, Standards and Procedures (PSP)**

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided must comply with all applicable State IT policies and standards.

IT Policies, Standards and Procedures (PSP): [http://www.michigan.gov/dtmb/0,4568,7-150-56355\\_56579\\_56755---,00.html](http://www.michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html)

### **7.2. Acceptable Use Policy**

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see [http://michigan.gov/dtmb/0,4568,7-150-56355\\_56579\\_56755---,00.html](http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html). All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

### **7.3. Look and Feel Standard**

All software items provided by the Contractor must adhere to the following Look and Feel Standards: [http://www.michigan.gov/documents/som/Look\\_and\\_Feel\\_Standards](http://www.michigan.gov/documents/som/Look_and_Feel_Standards).

### **7.4. ADA Compliance**

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. The State is requiring that Contractor's proposed Solution, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may consider, where relevant, the W3C's Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT) for non-web software and content. The State may require that Contractor complete a Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or other comparable document for the proposed Solution.

[http://www.michigan.gov/documents/dmb/1650.00\\_209567\\_7.pdf?20151026134621](http://www.michigan.gov/documents/dmb/1650.00_209567_7.pdf?20151026134621)



## 7.5. ACCESS CONTROL AND AUDIT

Contractor's Solution must support State standard federated single sign on for end user access. The Solution must support multi-factor authentication for privileged/administrative access.

## 7.6. SECURITY

### Externally Hosted

If the Contractor's Solution will be storing sensitive data.

- Must remain compliant with the Center for Medicare and Medicaid Services (CMS) Policies.
- Must sign the FBI Criminal Justice Information Services (CJIS) Security Addendum and maintain compliance with such document.
- Must remain compliant with the Internal Revenue Service (IRS) Policies.
- Must remain compliant with the Health Insurance Portability and Accountability Act (HIPAA) Policies.
- Must provide its standard business associate agreement (BAA).
- Must remain compliant with the Family Educational Rights and Privacy Act (FERPA) Policies.
- Must remain compliant with the Credit Card Holder information (PCI) Policies.
- Must provide a GovCloud Solution that is hosted in a FedRAMP certified facility.
- Must provide a GovCloud Solution and maintain an annual SSAE 16 SOC 2 Type 2 audit for the Solution.
- Must be encrypted in transit and at rest using AES 256 bit or higher encryption modules.
- Must be encrypted in transit and at rest using currently certified encryption modules in accordance with FIPS PUB 140-2 (as amended), Security Requirements for Cryptographic Modules.
- Must have multi-factor authentication, requiring a hard token.
- Must remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) HIGH controls using minimum control values as established in the applicable PSP.
- Must have multi-factor authentication for privileged/administrative access, however this level does not require a hard token at this time. Some other method such as SMMS text with passcode, phone call with temporary passcode or other approved multi-factor authentication method must be used.
- Must remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD controls using minimum control values as established in the applicable PSP.  
The Solution will be storing public data.
- Must be encrypted in transit and at rest using AES 128 bit or higher encryption.
- Must remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) LOW controls using minimum control values as established in the applicable PSP.
- Must maintain an annual SSAE 16 SOC 2 Type 2 audit for the Solution.

## 7.7. ADDITIONAL INFORMATION

The State reserves the right to purchase any additional services or products from the Contractor during the duration of the Contract.

# STATE OF MICHIGAN

Contract No. 19000000247  
 Legal Transcription Services – Statewide  
**SCHEDULE B**  
**PRICING MATRIX**

- Pricing includes all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).

Legal Transcription – Table B								
Item	Description	5 Year Volume Estimate (# of Occurrences)	X	Average # of Pages (if applicable)	X	Price	(for)	Estimated 5 Year Cost
1a	Original only – paper copy	720	X	29	X	<b>\$2.14</b>	Per page	\$44,683.20
1b	Original + one copy (within ten business days)	5,770	X	65	X	<b>\$2.14</b>	Per page	\$802,607.00
2a	Expedited original (within one business day)	33	X	39	X	<b>\$3.90</b>	Per page	\$5,019.30
2b	Expedited original + one copy (within one business day)	7	X	48	X	<b>\$3.90</b>	Per page	\$1,310.40
2c	Expedited original + one copy (within three business day)	10	X	50	X	<b>\$3.66</b>	Per page	\$1,830.00
2d	Expedited original + one copy (within five business day)	12	X	50	X	<b>\$3.33</b>	Per page	\$1,998.00
3	**Condensed Transcript (Minu-Script) copy of transcript within ten business days	10	X	N/A	X	<b>\$4.92</b>	Per transcript	\$49.20
4a	CD with transcription in Word format	20	X	N/A	X	<b>\$3.88</b>	Per CD	\$77.60
4b	CD with transcription in Word format (for previously billed/prepared transcript)	10	X	N/A	X	<b>\$3.88</b>	Per transcript	\$38.80
5a	Email transcript in Word format	10	X	N/A	X	<b>\$2.40</b>	Per transcript	\$24.00
5b	Email transcript in Word format (for previously billed/prepared transcript)	10	X	N/A	X	<b>\$2.40</b>	Per transcript	\$24.00
6	E-Transcript in PTX format	10	X	N/A	X	<b>\$3.88</b>	Per transcript	\$38.80
7	Electronic filing in PDF format	10	X	N/A	X	<b>\$3.88</b>	Per transcript	\$38.80
Total Estimated 5 Year Cost								\$857,739.10

<b>Cost Per Page for additional copies</b>	<b>\$0.30</b>
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\*\*Condensed Transcript (Minu-Script) must only be provided when requested by the State.

<b>NOTE</b>	Actual usage will vary.
	Normal turnaround time for Legal Transcription is 10 business days.
	Minimum number of lines per billable page is 25 lines. Half or less than half lines are considered a line. Double spacing. 12 Point
	Postage and special mailing charges are included in the per page pricing.

# STATE OF MICHIGAN

Contract No. 190000000247  
Legal Transcription Services – Statewide

## **SCHEDULE C DISASTER RECOVERY PLAN**

Contractor has provided the State with a copy of its Disaster Recovery Plan (DR Plan), which is incorporated herein by reference. The DR Plan is statutorily exempt from disclosure through FOIA request for security reasons.

# STATE OF MICHIGAN

Contract No. 190000000247  
Legal Transcription Services – Statewide

## **SCHEDULE D HIPAA Business Associates Addendum**

### **HIPAA BUSINESS ASSOCIATE ADDENDUM**

[Rev. 9-20-13]

The parties to this Business Associate Addendum (Addendum) are the State of Michigan, acting by and through the Department of Technology, Management and Budget (State) and Perry Johnson & Associates (Contractor). This Addendum supplements and is made a part of the existing contracts between the parties including the following Contract(s): Legal Transcription Services – Contract 190000000247 (Contract).

For purposes of this Addendum, the State is (check one):

- Covered Entity (CE)
- Business Associate (Associate)

and the Contractor is (check one):

- Covered Entity (CE)
- Business Associate (Associate)

### **RECITALS**

- A. Under the terms of the Contract, CE wishes to disclose certain information to Associate, some of which may constitute Protected Health Information or Personally Identifiable Information (collectively, Protected Information). In consideration of the receipt of such information, Associate agrees to protect the privacy and security of the information as set forth in this Addendum.
  
- B. CE and Associate intend to protect the privacy and provide for the security of Protected Information disclosed to Associate under the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH Act), Public Law 111-5, regulations promulgated by the U.S. Department of Health and Human Services (DHHS) (HIPAA Rules) and other applicable laws, as amended.
  
- C. As part of the HIPAA Rules, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with Associate prior to the disclosure of Protected Health Information, as set forth in, but not limited to, 45 CFR Parts 160 and 164 and the HITECH Act, and as otherwise contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions.

a. Except as otherwise defined herein, capitalized terms in this Addendum have the same meaning as those terms under HIPAA, the HITECH Act, and the HIPAA Rules.

b. “Agent” has the same meaning given to the term under the federal common law of agency.

- c. “Agreement” means the Contract and this Addendum, as read together.
- d. “Breach” means the acquisition, access, Use or Disclosure of Protected Health Information or Personal Identifying Information in a manner not permitted under the Privacy Rule or the Michigan Identify Theft Protection Act, as applicable, which compromises the security or privacy of such information.
- e. “Contract” means the underlying written agreement or purchase order between the parties for the goods or services to which this Addendum is added. Contract also includes all amendments and addendums to the original contract, both effective before and effective after the date of this Addendum.
- f. “Designated Record Set” has the same meaning as the term under 45 CFR §164.501.
- g. “Disclosure” means, the release, transfer, provision of access to, or divulging of Protected Information in any manner outside the entity holding the information.
- h. “Electronic Health Record” has the same meaning as the term under Section 13400 of the HITECH Act.
- i. “Electronic Protected Health Information” or “Electronic PHI” has the same meaning as the term under 45 CFR §160.103, limited to the information created, received, maintained or transmitted by Associate on behalf of CE.
- j. “HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

k. “HITECH Act” means The Health Information Technology for Economic and Clinical Health Act, part of the American Recovery and Reinvestment Act of 2009, specifically Division A: Title XIII Subtitle D—Privacy, and its corresponding regulations as enacted under the authority of the Act.

l. “Identity Theft Protection Act” means Public Act 452 of 2004, MCL 445.61, *et seq.*

m. “Individual” has the same meaning as the term under 45 CFR §160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR §165.502(g).

n. “Personal Identifying Information” or “PII” has the same meaning as the term Section 3(q) of the Identity Theft Protection Act.

o. “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

p. “Protected Health Information” or “PHI” has the meaning given to the term under the Privacy Rule, 45 CFR §160.103, limited to the information created, received, maintained or transmitted by Associate on behalf of CE.

q. “Protected Information” means PHI and PII created, received, maintained or transmitted by Associate on behalf of CE.

r. “Security Incident” means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of Protected Information or interference with system operations in an information system.

s. “Security Rule” means the Standards for Security of Electronic Protected Health Information at 45 CFR Part 160 and Subparts A and C of Part 164.

t. “Subcontractor” means a person or entity that creates, receives, maintains, or transmits Protected Information on behalf of Associate and who is now considered a Business Associate, as the latter term is defined in 45 CFR §160.103.

u. “Unsecured Protected Health Information” or “Unsecured PHI” means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by DHHS as defined in the Breach Rule, 45 CFR §164.402.

v. “Use” means, with respect to Protected Information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

## 2. Obligations and Activities of Associate.

a. Permitted Uses and Disclosures. Associate may Use and Disclose Protected Information only as necessary to perform services owed CE under the Contract and meet its obligations under this Addendum, provided that such Use or Disclosure would not violate the Privacy Rule, the privacy provisions of the HITECH Act or the Identity Theft Protection Act, if done by CE. All other Uses or Disclosures by Associate not authorized by this Addendum, or by specific written instruction of CE, are prohibited. Except as otherwise limited by this Addendum, Associate may Use and Disclose Protected Information as follows:

- i. Associate may Use Protected Information for the proper management and administration of the Associate or to carry out the legal responsibilities of the Associate.
- ii. Associate may Disclose Protected Information for the proper management and administration of the Associate,



provided that Disclosures are Required by Law; or Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and Used, or further Disclosed, only as Required by Law, or for the purpose for which it was Disclosed to the person, and the person notifies the Associate of any instances of which it is aware that the confidentiality of the information has been breached.

- iii. Associate may Use Protected Health Information to provide Data Aggregation services to CE for the Health Care Operations of CE, as permitted by 45 CFR §164.504(e)(2)(i)(B). Associate agrees that said services shall not be provided in a manner that would result in Disclosure of Protected Health Information to another CE who was not the originator or lawful possessor of said information. Further, Associate agrees that any such wrongful Disclosure of Protected Health Information constitutes a Breach and shall be reported to CE in accordance with this Addendum.
- iv. Associate may Use Protected Health Information to report violations of law to appropriate federal and state authorities, consistent with 45 CFR §164.502(j)(1).

b. Appropriate Safeguards. Associate must implement appropriate safeguards to protect against the Use or Disclosure of Protected Information other than as permitted by this Addendum so as to comply with the HIPAA Rules, the HITECH Act, and applicable state laws and maintain written policies concerning the same. Associate must implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Information, including specifically Electronic PHI, as provided for in the Security Rule and as mandated by Section 13401 of the HITECH Act. These safeguards shall include, at minimum:

- i. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in conducting operations on behalf of CE under this Addendum.

ii. Providing a level and scope of security that is at least comparable to the level and scope of security established by the National Institute of Standards and Technology (NIST) in NIST 800-53, Recommended Security Controls for Federal Information Systems, Annex 2: Consolidated Security Controls-Moderate Baseline. The oldest acceptable version is the most recently approved version of NIST that has been approved for 6 months or more; however, Associate is encouraged to adopt newly approved versions of NIST as soon as practicable. If Associate chooses to use the Control Objectives for Information and Related Technology (COBIT), Information Systems Audit and Control Association (ISACA), or International Organization for Standardization (ISO) standards, Associate must demonstrate and document how each aspect of the chosen standard comports with the applicable version of NIST and make such documentation available to CE upon request. If Associate uses a standard other than those described in this subsection, Associate must demonstrate and document how each aspect of the chosen standard comports with the appropriate version of NIST and present to CE for review and approval. Additionally, whichever standard is chosen must comport with HIPAA Rules, including specifically the Security Rule and Privacy Rule.

iii. Achieving and maintaining compliance with the Michigan Information Technology Security Policies set forth by the Office of Michigan Cyber Security and Infrastructure Protection.

iv. In case of a conflict between any of the security standards contained in any of these enumerated sources, the most stringent shall apply. The most stringent means those safeguards that provide the highest level of protection to Protected Information from unauthorized Disclosure. Further, Associate must comply with changes to these standards that occur after the effective date of this Addendum.

v. Upon request, Associate must provide CE with all information security and privacy policies, disaster recovery and business continuity policies, network connectivity diagrams, and all other security measures implemented by Associate.

c. Security Incidents. Associate must notify and report to CE in the manner described herein any Security Incident, whether actual or suspected, and any Use or Disclosure of Protected Information in violation of this Addendum, and take the following actions:

- i. Notice to CE. Associate must notify CE, via e-mail and telephone, within five (5) business days of the discovery of any Security Incident or any Use or Disclosure of Protected Information in violation of this Addendum. Associate must follow its notification to CE with a report that meets the requirements outlined immediately below.
- ii. Investigation; Report to CE. Associate must promptly investigate any Security Incident. Within ten (10) business days of the discovery, Associate must submit a preliminary report to CE identifying, to the extent known at the time, any information relevant to ascertaining the nature and scope of the Security Incident. Within fifteen (15) business days of the discovery of the Security Incident and unless otherwise directed by CE in writing, Associate must provide a complete report of the investigation to CE. Such report shall identify, to the extent possible: (a) each individual whose Protected Information has been, or is reasonably believed by Associate to have been accessed, acquired, Used or Disclosed; (b) the type of Protected Information accessed, Used or Disclosed (e.g., name, social security number, date of birth) and whether such information was Unsecured; (c) who made the access, Use, or Disclosure; and (d) an assessment of all known factors relevant to a determination of whether a Breach occurred under applicable provisions of HIPAA, the HIPAA Rules, the HITECH Act, or a Breach of Security under the Identity Theft Protection Act, and any other applicable federal or state regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and contain any

improper Use or Disclosure. If CE requests information in addition to that listed in the report, Associate shall make reasonable efforts to provide CE with such information. Associate agrees that CE reserves the right to review and recommend changes to any corrective action plan and make a final determination as to whether a Breach of PHI or PII occurred and whether any notifications may be required under applicable state or federal regulations, including Section 13402 of the HITECH Act. In the event of a Breach of Unsecured PHI, as determined by CE, Associate agrees, consistent with 45 CFR §164.404(c), Section 13402 of the HITECH Act and Section 12 of the Identity Theft Protection Act, as applicable, to provide CE with information and documentation in its control necessary to meet the requirements of said sections, and in a manner and format to be reasonably specified by CE.

iii. Mitigation. Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a Security Incident or a Use or Disclosure of Protected Information in violation of the requirements of this Addendum. Associate must take: (a) prompt corrective action to cure any such violation and (b) any other action pertaining to such unauthorized Use or Disclosure required by applicable federal and state laws and regulations.

d. Responsibility for Notifications. If the cause of a Breach of Protected Information is attributable to Associate or its Agents or Subcontractors, Associate is responsible for all required reporting and notifications of the Breach as specified in and in accordance with Section 13402 of the HITECH Act and the Identity Theft Protection Act, as applicable, unless CE notifies Associate in writing that CE intends to be responsible for said reporting and notifications. In all cases, CE's authorized representative shall approve the time, manner, and content of any such notification and its approval must be obtained before the notification is made. In the event of such Breach, and without limiting Associate's obligations of indemnification as further described in this Addendum, Associate must indemnify, defend, and hold harmless CE for any and all claims or losses, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from CE in connection with the occurrence.

e. Associate's Agents and Subcontractors. If Associate uses one or more Subcontractors or Agents to provide services under the Agreement, and such Agents or Subcontractors receive or have access to Protected Information, each Subcontractor or Agent must sign an agreement with Associate containing substantially the same provisions as this Addendum and in conformance with 45 CFR §164.504(e)(2), and to assume toward Associate all of the obligations and responsibilities that the Associate, by this Addendum, assumes toward CE. Associate agrees to provide said Agents or Subcontractors PHI in accordance with the HIPAA Rules, the HITECH Act, and PII in accordance with applicable federal and state law and must: (i) implement and maintain sanctions against Subcontractors and Agents that violate such restrictions and conditions; and (ii) mitigate, to the extent practicable, the effects of any such violation.

f. Access to Protected Health Information. Associate agrees to make PHI regarding an Individual maintained by Associate or its Agents or Subcontractors in a Designated Record Set available to such Individual for inspection and copying in order to meet CE's obligations under 45 CFR §164.524. An Individual's request for access must be submitted on standard request forms available from Associate. If CE receives a request for access, CE, in addition to addressing the request on its behalf, will forward the request in writing to Associate in a timely manner. If Associate or its Agents or Subcontractors maintain Electronic Health Records for CE, then Associate must provide, where applicable, electronic access to the Electronic Health Records to CE.

g. Amendment of Protected Health Information. Associate agrees to make any amendment(s) to PHI in a Designated Record Set to meet CE's obligations under 45 CFR §164.526. An Individual's amendment request must be submitted on standard forms available from Associate. If CE receives a request for an amendment, CE, in addition to addressing the request on its behalf, will forward the request in writing to Associate in a timely manner.

h. Accounting Rights. Associate agrees to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528. Associate must maintain necessary and sufficient documentation of Disclosures of PHI and information related to such Disclosures as would be required for CE to respond to a request by an Individual for an accounting of Disclosures under 45 CFR §164.528. An

Individual's request for a report of accounting must be submitted on standard request forms available from Associate. If CE receives a request for an accounting, CE, in addition to addressing the request on its own behalf, will forward the request in writing to Associate in a timely manner. Associate must also comply with the requirements of Section 13405(c) of the HITECH Act, as applicable.

i. Access to Records and Internal Practices. Unless otherwise protected or prohibited from discovery or Disclosure by law, Associate must make its internal practices, books, and records, including policies and procedures (collectively, Compliance Information), relating to the Use or Disclosure of PHI and PII and the protection of same, available to CE or to the Secretary of DHHS (Secretary) for purposes of the Secretary determining CE's compliance with the HIPAA Rules and the HITECH Act. Associate shall have a reasonable time within which to comply with requests for such access, consistent with this Addendum. In no case shall access be required in less than five (5) business days after Associate's receipt of such request, unless otherwise designated by the Secretary.

j. Minimum Necessary. Associate (and its Agents or Subcontractors) shall only request, Use and Disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with the Minimum Necessary requirements of the Privacy Rule, including, but not limited to 45 CFR §§ 164.502(b) and 164.514(d) and the HITECH Act.

k. Compliance.

i. To the extent that Associate carries out one or more of CE's obligations under the HIPAA Rules, Associate must comply with all requirements that would be applicable to CE.

ii. Associate must honor all restrictions consistent with 45 CFR §164.522 that CE or the Individual makes Associate aware of, including the Individual's right to restrict certain Disclosures of PHI to a health plan where the Individual pays out of pocket or in full for the healthcare

item or service, in accordance with Section 13405(a) of the HITECH Act.

l. Data Ownership. Unless otherwise specified in this Addendum, Associate agrees that Associate has no ownership rights with respect to the Protected Information and that CE retains all rights with respect to ownership of such information. Associate further agrees not to receive remuneration, directly or indirectly, in exchange for Protected Information, except with the prior written consent of CE.

m. Retention of Protected Information. Notwithstanding Section 5(d) of this Addendum, Associate and its Subcontractors or Agents shall retain all Protected Information throughout the term of the Contract and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years from the date of creation or the date when it last was in effect, whichever is later, or as Required by Law. This obligation shall survive the termination of the Contract.

n. Destruction of Protected Information. Associate must implement policies and procedures for the final disposition of Protected Information, including electronic PHI, and the hardware and equipment on which it is stored, including but not limited to, removal before re-Use, in accordance with the Security Rule, the HITECH Act, and other applicable laws relating to the final disposition of Protected Information.

o. Audits, Inspection, and Enforcement. Within ten (10) days of a written request by CE, Associate and its Agents or Subcontractors must allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the Use or Disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that: (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection; (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection; and (iii) CE or Associate shall execute a nondisclosure agreement, if requested by Associate or CE. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure

to notify Associate or require Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under this Addendum. If Associate is the subject of an audit, compliance review, or complaint investigation by DHHS that is related to the performance of its obligations pursuant to this Addendum, Associate must notify CE and provide CE with a copy of any PHI that Associate provides to DHHS concurrently with providing such information to DHHS. If, as a result of an audit or other investigation of Associate, DHHS assesses any civil penalties, Associate shall pay such penalties.

p. Audit Findings. Associate must implement any appropriate Safeguards, as identified by CE in an audit conducted under paragraph 2(o).

q. Reserved.

r. Safeguards During Transmission. Associate must utilize safeguards that reasonably and appropriately maintain and ensure the confidentiality, integrity, and availability of Protected Information transmitted to CE under this Addendum, in accordance with the standards and requirements of the HIPAA Rules and other applicable federal or state regulations, until such Protected Information is received by CE, and in accordance with any specifications set forth in Schedule D.

s. Due Diligence. Associate must exercise due diligence and take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HIPAA Rules, the HITECH Act and other applicable laws or regulations pertaining to Protected Information, and that its Agents, Subcontractors and vendors are in compliance with their obligations as required by this Addendum.

t. Sanctions and Penalties. Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act, the HIPAA Rules or any other state or federal regulation that is applicable to Associate may result in the imposition of sanctions or penalties on Associate under HIPAA, the HIPAA Rules, the HITECH Act, or any other applicable laws or regulations pertaining to PHI and PII.



u. Indemnification. Associate shall indemnify, hold harmless and defend CE from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of Associate or its Agents or Subcontractors in connection with the representations, duties, and obligations of Associate under this Addendum, including but not limited to any unauthorized Use or Disclosure of Protected Information. This includes credit-monitoring services, third party audits of Associate's handling and remediation of the Breach, and reimbursement for State employee time spent handling the Security Incident, as reasonably deemed appropriate by CE. The parties' respective rights and obligations under this subsection shall survive termination of the Agreement.

3. Obligations of CE.

a. Safeguards During Transmission. CE must utilize safeguards that reasonably and appropriately maintain and ensure the confidentiality, integrity, and availability of Protected Information transmitted to Associate under this Addendum, in accordance with the standards and requirements of the HIPAA Rules and other applicable federal or state regulations, until such Protected Information is received by Associate, and in accordance with any specifications set forth in Schedule D.

b. Notice of Limitations and Changes. CE must notify Associate of any limitations in its notice of privacy practices in accordance with 45 CFR §164.520, or any restriction to the Use or Disclosure of PHI that CE has agreed to in accordance with 45 CFR §164.528, to the extent that such limitation may affect Associate's Use or Disclosure of PHI. CE must also notify Associate of any changes in, or revocation of, permission by Individual to Use or Disclose PHI of which it becomes aware, to the extent that such changes may affect Associate's Use or Disclosure of PHI.

4. Term. This Addendum shall continue in effect as to each Contract to which it applies until such Contract is terminated or is replaced with a new contract between the parties containing provisions meeting the requirements of the HIPAA Rules and the HITECH Act, whichever first occurs. However, certain obligations will continue as specified in this Addendum.

5. Termination.

a. Material Breach. Except as otherwise provided in the Contract, a breach by Associate of any provision of this Addendum, as determined by CE, shall constitute a material breach of the Agreement and provide grounds for CE to terminate the Agreement for cause, subject to section 5(b):

i. Default. If Associate refuses or fails to timely perform any of the provisions of this Addendum, CE may notify Associate in writing of the non-performance, and if not corrected within thirty (30) days, CE may immediately terminate the Agreement. Associate agrees to continue performance of the Agreement to the extent it is not terminated.

ii. Duties. Notwithstanding termination of the Agreement, and subject to any reasonable directions from the CE, Associate agrees to take timely, reasonable and necessary action to protect and preserve property in the possession of the Associate in which CE has an interest.

iii. Erroneous Termination for Default. If after such termination it is determined, for any reason, that Associate was not in default, or that Associate's action or inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the Contract had been terminated for convenience, as described in this Addendum or in the Contract.

b. Reasonable Steps to Cure Breach. If CE knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate the Agreement under Section 5(a), then CE shall take reasonable steps to cure such breach or end such violation, as applicable. If CE's efforts to cure such breach or end such violation are unsuccessful, CE shall either (i) terminate the Agreement, if feasible or (ii) if termination of the Agreement is not feasible, CE shall report Associate's breach or violation to the Secretary.

c. Reserved.

d. Effect of Termination.

(i) At the direction of CE, and except as provided in section 5(d)(ii), upon termination of the Agreement for any reason, Associate must return or destroy all Protected Information that Associate or its Agents or Subcontractors still maintain in any form, and shall retain no copies of such information. If CE directs Associate to destroy the Protected Information, Associate must certify in writing to CE that such information has been destroyed. If CE directs associate to return such information, Associate must do so promptly in any format reasonably specified by CE.

(ii) If Associate believes that returning or destroying the Protected Information is not feasible, including but not limited to, a finding that record retention requirements provided by law make return or destruction infeasible, Associate must promptly provide CE written notice of the conditions making return or destruction infeasible. Upon mutual agreement of CE and Associate that return or destruction of Protected Information is infeasible, Associate must continue to extend the protections of this Addendum to such information, and must limit further Use of such Protected Information to those purposes that make the return or destruction of such Protected Information infeasible.

6. Reserved.

7. No Waiver of Immunity. No term or condition of this Addendum shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of applicable laws, including the Michigan Governmental Immunity Act, MCL 691.1401, *et seq.*, the Court of Claims Act, MCL 600.6401, *et seq.*, the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*, or the common law, as applicable, as now in effect or hereafter amended.

8. Reserved.

9. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Addendum, HIPAA, the HIPAA Rules, the HITECH Act or other applicable laws pertaining to Protected Information will be

adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of Protected Information.

10. Reserved.

11. Amendment.

a. Amendment to Comply with Law. The parties agree to take such action as is necessary to amend this Addendum from time to time as may be necessary for CE and Associate to comply with and implement the standards and requirements of HIPAA, the Privacy Rule, the Security Rule, the Breach Rule, the HITECH Act, the Identity Theft Protection Act, and other applicable laws relating to the security or privacy of PHI and PII. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the Privacy Rule, the Security Rule, the Breach Rule, the HITECH Act, the Identity Theft Protection Act, or other applicable laws. Either party may terminate the Agreement upon thirty (30) days written notice if (i) the other does not promptly enter into negotiations to amend this Agreement when requested by the requesting party under this Section or (ii) the non-requesting party does not enter into an amendment to this Agreement when requested providing assurances regarding the safeguarding of PHI and PII that the requesting party, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA, the HIPAA Rules, the HITECH Act, the Identity Theft Protection Act, and other applicable laws.

b. Amendment of Schedule D. Schedule D may be modified or amended by mutual agreement of the parties in writing from time to time without formal amendment of this Addendum.

12. Assistance in Litigation or Administrative Proceedings. Associate must make itself, and any Subcontractors, employees or Agents assisting it in the performance of its obligations under this Addendum available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against a party, its directors,

officers or employees, departments, agencies, or divisions based upon a claimed violation of HIPAA, the HITECH Act, the HIPAA Rules, the Identity Theft Protection Act, or other laws relating to security and privacy of Protected Information, except where the other party or its Subcontractor, employee or Agent is a named adverse party.

13. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

14. Effect on Contract. Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect. This Addendum is incorporated into the Contract as if set forth in full therein. The parties expressly acknowledge and agree that sufficient mutual consideration exists to make this Addendum legally binding in accordance with its terms. Associate and CE expressly waive any claim or defense that this Addendum is not part of the Agreement between the parties under the Contract.

15. Interpretation and Order of Precedence. This Addendum is incorporated into and becomes part of each Contract identified herein. Together, this Addendum and each separate Contract constitute the Agreement of the parties with respect to their Business Associate relationship under HIPAA, the HIPAA Rules, and the HITECH Act. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA Rules, and applicable state laws. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, and the HIPAA Rules. This Addendum supersedes and replaces any previous separately executed HIPAA addendum between the parties. In the event of any conflict between the mandatory provisions of the HIPAA Rules and the HITECH Act and the provisions of this Addendum, the HIPAA Rules and the HITECH Act shall control. Where the provisions of this Addendum differ from those mandated by the HIPAA Rules or the HITECH Act, but are nonetheless

permitted by the HIPAA Rules and the HITECH Act, the provisions of this Addendum shall control.

16. Effective Date. This Addendum is effective upon receipt of the last approval necessary and the affixing of the last signature required.

17. Survival of Certain Contract Terms. Notwithstanding anything herein to the contrary, Associate's obligations under Section 2(d) (Responsibility for Notifications), Section 2(u) (Indemnification), Section 5(d) (Effect of Termination), Section 12 (Assistance in Litigation or Administrative Proceedings), Section 13 (No Third Party Beneficiaries), and applicable record retention laws shall survive termination of this Agreement and shall be enforceable by CE as provided herein in the event of such failure to perform or comply by the Associate.

18. Representatives and Notice.

a. Representatives. For the purpose of this Addendum, the individuals identified in the Contract shall be the representatives of the respective parties. If no representatives are identified in the Contract, the individuals listed below are hereby designated as the parties' respective representatives for purposes of this Addendum. Either party may from time to time designate in writing new or substitute representatives.

b. Notices. Except as otherwise provided in this Addendum, all required notices shall be in writing and shall be hand delivered or given by certified or registered mail to the representatives at the addresses set forth below.

Covered Entity Representative:

Name:	Courtney Flores
Title:	Category Analyst
Department:	Department of Technology Management & Budget
Division:	Central Procurement Services

Address: 525 W Allegan St  
Lansing, MI 48911

Business Associate Representative:

Name: Jeffrey R. Hubbard  
Title: President/CEO  
Department: Perry Johnson & Associates  
Address: 755 W. Big Beaver Rd, Suite 1300  
Troy, MI 48084

Any notice given to a party under this Addendum shall be deemed effective, if addressed to such party, upon: (i) delivery, if hand delivered; or (ii) the third (3<sup>rd</sup>) business day after being sent by certified or registered mail.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Addendum Effective Date.

**Associate**

**Covered Entity**

Perry Johnson & Associates, Inc

State of Michigan, Department of  
Technology, Management & Budget

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_