

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

CHANGE NOTICE NO. 7
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lyndsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds- Barnes	deleca.barnes@maxorcps.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	615-771-4674	*****9247

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MDOC	Lia Gulick	517-241-9902	GulickL@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Pharmaceutical Services For Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4 - 1 Year	May 31, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		May 31, 2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$148,000,000.00		\$10,000,000.00	\$158,000,000.00	
DESCRIPTION: Effective January 27, 2016, this contract is hereby increased by \$10,000,000.00. All other terms, conditions, specifications, and pricing remain the same. Per agency and contractor agreement and DTMB-Procurement approval; and State Administration Board approval on January 26, 2016.				

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

CHANGE NOTICE NO. 6
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lyndsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds- Barnes	deleca.barnes@maxorcps.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	615-771-4674	****9247

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MDOC	Lia Gulick	517-241-9902	GulickL@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Pharmaceutical Services For Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4 - 1 Year	December 31, 2015
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	Five months	<input type="checkbox"/>		May 31, 2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$148,000,000.00		\$0.00	\$148,000,000.00	

DESCRIPTION: Effective January 1, 2016, a five month option is exercised until May 31, 2016. The Administrative Fee PPPM is increased by \$2.00; the new rate is \$9.10. Also, the following language is hereby added (as part of Section 2.171 Contractor Transition Responsibilities): The Contractor must process pharmaceutical returns from MDOC facilities received by June 30, 2016, and issue a check to the MDOC for those returns by July 30, 2016. In addition, the Contractor must process and provide manufacturer's discounts and rebates in accordance with the provisions of the Contract to the MDOC for the duration of this Change Notice. The Contractor must provide a quarterly report documenting the discounts and rebates earned and the potential credit amount. The Contractor must ensure that all manufacturer discounts and rebates earned during the Contract term, including the period of this Change Notice, will be credited to the MDOC in accordance with the terms of the Contract. The Contractor must issue a check to the MDOC for all discounts and rebates earned during the Contract term, regardless of when such discounts and rebates are processed, and in no event any later than December 31, 2016.

STATE OF MICHIGAN
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 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
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CHANGE NOTICE NO. 5
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds-Barnes	Deleca.barnes@maxorcps.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(615) 771-4674	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DOC			
BUYER	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Pharmaceutical Services for Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4, 1 Yr. Options	December 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		December 31, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$148,000,000.00		
Effective November 1, 2014, the Per Prisoner Per Month (PPPM) Administration Fee is INCREASED by \$0.07. The new PPPM total is \$7.31.				
All other terms, conditions, specifications, and pricing remain the same.				
Per vendor and agency agreement and DTMB Procurement approval.				

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 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
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 P.O. BOX 30026, LANSING, MI 48909
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CHANGE NOTICE NO. 4
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds-Barnes	Deleca.barnes@maxorcps.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(615) 771-4674	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DOC			
BUYER	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Pharmaceutical Services for Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4, 1 Yr. Options	December 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One Year	December 31, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$40,000,000.00		\$148,000,000.00		

Effective January 1, 2015, this Contract is exercising the first option year and is INCREASED by \$40,000,000.00. The REVISED Contract expiration date is December 31, 2015. All other terms, conditions, specifications and pricing remain the same. Per vendor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on August 12, 2014.

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds-Barnes	deleca.barnes@maxorcps.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(615) 771-4674	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	Lia Gulick	517-241-9902	gulickg@michigan.gov
BUYER	DTMB	Lance Kingsbury	517-241-3768	kingsburyl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Pharmaceutical Services for Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4, 1 Yr. Options	December 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:		
\$0.00		\$108,000,000.00		

Effective immediately, the following service level agreements (SLA) are hereby incorporated into this contract. All other terms, conditions, specifications, and pricing remain the same.

Per contractor and agency agreement and DTMB Procurement approval.

Change Notice 3
Contract Number 071B2200047
Service Level Agreements

The following Service Level Agreement (SLA) measures have been agreed upon and will be measured as outlined below. Informal measurement of these SLA measures will be conducted in the last quarter of 2012 to verify and address any necessary changes to the methodology. Formal measurement against these SLAs will begin effective January 1, 2013.

SLA #1: Timely Delivery of Mail Order Prescriptions

Applicable Service Delivery Points:

- o Delivery to all MDOC facilities Monday – Friday, except on exempted holidays;
- o Delivery on Saturday, except on exempted holidays to all MDOC facilities except those that have been approved for NO Saturday delivery by the MDOC.

Performance Category/Contract Reference: Delivery within the timeframes established by the statement of work (Article 1, 1.022.3.c.i-iii):

c. Delivery schedule

- i. The Contractor must deliver routine dispensed pharmaceutical orders received by the mail order pharmacy by 3:00 p.m. Eastern Standard Time (EST) the day following the transmission of the prescription order from the MDOC facility to the mail order pharmacy.
- ii. Routine delivery will be Monday through Saturday within the next business day of receipt of the order, unless the site has been identified for NO Saturday deliveries.
- iii. Routine delivery is not expected on the following holidays: Christmas (December 25), New Year's Day (January 1), Memorial Day, Martin Luther King Day, Labor Day, and Thanksgiving. Deliveries are expected to happen on the day after Thanksgiving Day, Veterans Day, Independence Day, Christmas Eve and New Year's Eve. The Contractor must provide a satisfactory plan for holiday and emergency deliveries. The plan must be approved by the CCI.

Performance Measure Description: Mail order delivery must not be later than the next business day for complete orders placed and accepted for fulfillment prior to 3:00 p.m. Michigan time. An order will be considered complete and accepted for fulfillment if it is listed on the "Filled" section of the packing list.

Who: Monitoring will be done by the facility Health Unit Managers.

Frequency: Quarterly (HUMs), consisting of not less than 30 randomly selected days of measurement.

How Measured:

- (1) Time of receipt will be verified by the UPS delivery confirmation. Delivery days for which UPS is operating on weather delay/emergency exception status or provides other delay documentation beyond the Contractor's control will be exempt from measurement.
- (2) Items received will be verified by comparing the "Filled" section of the packing list to the items received as documented via the use of the scanned receiving process.
- (3) Calculation. The measure will be calculated as an average of the daily percentages calculated as follows:

Daily Percent Compliance = (1 - (number of filled orders not received next day divided by the total number of filled orders)) multiplied by 100.

Examples:

(a) UPS delivery confirmation shows order was received at 3:10 p.m. Electronic scan of items received finds one order of the total 54 orders listed on the filled section of the packing list was not received. Percent compliance would be $(1 - (1 \text{ divided by } 54)) \text{ times } 100 = 98.15\%$.

(b) UPS delivery confirmation shows order was received at 11:25 p.m. Electronic scan of items received finds one box containing 70 orders of the total 680 orders listed on the filled section of the packing list was not received. Percent compliance would be $(1 - (70 \text{ divided by } 680)) \text{ times } 100 = 89.70\%$.

(c) UPS delivery confirmation shows order was not received the next business day, but was instead received the following day at 1:05 p.m. UPS had issued a weather delay notice for the region for the prior delivery day. No measurement of the indicator is required for this day.

(d) UPS delivery confirmation shows order was not received the next business day, but was instead received the following day at 1:05 p.m. No delivery exception notice was issued by UPS. All orders for that day are considered to be received late. Percent compliance = 0.00%.

Overall Compliance Percentage: Average of daily percent compliance for the number of days monitored.

Reports/Documents Used:

- (a) UPS Delivery Confirmation noting date and time of delivery
- (b) "Filled" portion of packing list
- (c) Electronic Check-in receiving report

Acceptable Threshold: 98.00% compliance statewide; additional threshold per facility of 90.00%.

Performance Credit: A quarterly review will be conducted to determine compliance to the SLA. There will be a penalty assessed when statewide compliance is below the acceptable threshold as follows: \$2,500.00 for compliance between 95.00% - 98.00%; \$5,000.00 for compliance below 95.00%. An additional penalty of \$1,000.00 will be assessed for each facility that is below the facility threshold of 90.00%.

Review Process: Prior to assessment of any performance penalty, the Contractor will be provided with the detailed information and calculations of the SLA performance and will have 10 working days to respond to and present any mitigating or conflicting information for consideration by the MDOC.

SLA #2: Returns Credit Reconciliation

Applicable Service Delivery Points: All MDOC facilities and the Contractor's Pharmacy

Performance Category/Contract Reference: Vendor pharmaceutical return reports must be reconciled to the facility return logs as outlined by the statement of work (Article 1, 1.022.9.g):

The Contractor must provide a reconciliation method for returned and disposed medications that reconciles to the return log based on the date dispensed. The returns/disposals must be reconciled in the month following the month of return.

Performance Measure Description: The Contractor's Return Review Report (that provides documentation of all medications returned with credit, without credit, and the reason no credit was

issued) must be compared to the facility Returns Report created when items are scanned for return to ensure that all medication returns are accounted for in the returns process. Note: Per legal and regulatory requirements, controlled substances may not be returned for credit and are therefore excluded from this measure.

Who: Monitoring will be done by the facility Health Unit Managers and the assigned Pharmacy Tech/Assistant.

Frequency: Monthly by the HUMs.

How Measured:

(a) The MDOC facilities will scan all items being returned to the Contractor using the Contractor's returns process, including noting the actual quantity of each item. The scanned returns report will be printed and saved for reconciliation purposes.

(b) The Contractor must process all returns received by the 25th day of the month and include a credit or reason for denial of credit for each item on the Returns Review Report submitted with the billing each month.

(c) The MDOC will verify that the Contractor's Returns Review Report includes all medications that were returned from the facility and received by the Contractor by the 25th of the month by comparing it to the scanned returns report(s). Any items listed on the scanned returns report, but not found on the Contractor's Returns Review Report (either as credited or non-credited) must be noted.

(d) The percent compliance will be calculated as follows:

Percent compliance = $(1 - (\text{number of items found on scanned returns review report} / \text{total number of items on the returns review report})) \times 100$.

Examples:

(a) A comparison of the scanned returns report to the Contractor's Returns Review Report finds two items not listed out of a total of 210 items. The scanned items were received by the Contractor for returns processing on the 20th of the month. The percent compliance would be $(1 - (2/210)) \times 100 = 99.04\%$.

(b) A comparison of the scanned returns report to the Contractor Returns Review Report finds no items not listed out of a total of 110 items received by Maxor for returns processing on the 20th of the month and found only 25 of 200 items scanned for return that were shipped by the facility on the 25th day of the month. None of the items that were not received for returns processing by the Contractor by the 25th should be included in the calculation. In this example, the percent compliance would be $(1 - (0/110)) \times 100 = 100\%$.

Reports/Documents Used:

- (a) Copies of scanned returns report
- (b) Contractor Returns Review Report

Acceptable Threshold: 98.00% compliance statewide; additional threshold per facility of 90.00%.

Performance Credit: A monthly review will be conducted to determine compliance to the SLA. There will be a penalty assessed when statewide compliance is below the acceptable threshold as follows: \$1,500.00 for compliance between 95.00% - 98.00%; \$3,000.00 for compliance below 95.00%. An additional penalty of \$500.00 will be assessed for each facility that is below the facility threshold of 90.00%.

Review Process: Prior to assessment of any performance penalty, the Contractor will be provided with the detailed information and calculations of the SLA performance and will have 10

working days to respond to and present any mitigating or conflicting information for consideration by the MDOC.

SLA #3: Medication Errors

Applicable Service Delivery Points: All MDOC facilities and the Contractor Pharmacy

Performance Category/Contract Reference: Vendor pharmaceutical error reports must be reconciled to facility error reports and reported to the CCI on a monthly basis. Per Article 1.042.7.c:

"The Contractor must provide, at a minimum, the following reporting requirements: Monthly reporting of prescription errors."

Performance Measure Description: Each facility tracks medication errors. Medication errors due to actions or inactions of the Contractor pharmacy are to be forwarded to the Contractor for review and response. The facility will maintain a log of all medication errors sent to the Contractor. A copy of the log will be sent to the Contractor at the end of each month to serve as a check that all error reports have been received. The Contractor must respond to all error reports within 15 calendar days. The Health Unit Manager will review the pharmaceutical errors at their respective facility and compare it to the error report response(s) generated by the Contractor to ensure a response is provided for each error. Discrepancies will be submitted to the Contractor for review and response.

Who: Monitoring will be done by the facility Health Unit Manager, Pharmacy Tech/Assistant, and the CCI.

Frequency: Monthly by the HUM.

How Measured: The MDOC will verify that a response to each medication error report sent to the Contractor has been received by comparing them to the DOC facility error logs.

The measure will be calculated as follows:

- a) Pharmacy medication errors will be documented by the facility on a problem resolution form and submitted to the Contractor for review and response. The Contractor must respond to all medication errors they are notified of through the submission of a problem resolution form within 15 calendar days from the date of receipt to the facility HUM.
- (b) The Contractor response to a medication error must be documented on the problem resolution form and, if needed, attach additional documentation which must include the prisoner name and number, description of the error, type of error, and the date of the error.
- (c) By the 20th day of the month, the Contractor must provide each facility with a monthly summary report listing all problem resolution forms received for the preceding month.
- (c) The monthly Contractor summary report(s) will be compared to the facility error log and discrepancies will be provided to the Contractor for review.
- (d) The Contractor must provide a response to any discrepancies within five calendar days.
- (e) The facility will consider the additional response from the Contractor in an effort to resolve any error reporting discrepancies. The facility will count the remaining unreconciled reporting discrepancies.
- (f) The percent compliance is then computed by the following formula:

Percent compliance = (1 - (number of unreconciled problem resolution forms divided by the total number of problem resolution forms submitted by the facility)) multiplied by 100.

Examples:

- (a) Reconciliation of the Contractor summary report to the facility error report finds one of 13 problem resolution forms not listed on the Contractor report. The discrepancy is

forwarded to the Contractor for review. The Contractor reviews and corrects the report to account for the discrepancy. Percent compliance would be 100.00%.

(b) Reconciliation of the Contractor error report to the facility error report finds one of 13 reportable errors not listed on the Contractor report. The discrepancy is forwarded to the Contractor for review. The Contractor is unable to satisfactorily account for the discrepancy. Percent compliance would be $(1 - (1/13))$ multiplied 100 = 92.30%.

Reports/Documents Used:

(a) Problem Resolution Form—used to document pharmacy errors.

(b) Contractor Monthly Problem Resolution form summary report (c) Facility medication error log

Acceptable Threshold: 97.00% compliance statewide; additional threshold per facility of 90.00%.

Performance Credit: A monthly review will be conducted to determine compliance to the SLA. There will be a penalty assessed when statewide compliance is below the acceptable threshold as follows: \$1,500.00 for compliance between 94.00% - 97.00%; \$3,000.00 for compliance below 94.00%. An additional penalty of \$500.00 will be assessed for each facility that is below the facility threshold of 90.00%.

Review Process: Prior to assessment of any performance penalty, the Contractor will be provided with the detailed information and calculations of the SLA performance and will have 10 working days to respond to and present any mitigating or conflicting information for consideration by the MDOC.

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
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CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B2200047
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067	Deleca Reynolds-Barnes	deleca.barnes@maxorcps.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(615) 771-4674	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	Lia Gulick	517-241-9902	gulickg@michigan.gov
BUYER	DTMB	Lance Kingsbury	517-241-3768	kingsburyl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Pharmaceutical Services for Prisoners – Michigan Department of Corrections			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2012	December 31, 2014	4, 1 Yr. Options	December 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:		
\$0.00		\$108,000,000.00		

Effective immediately, the Per Prisoner Per Month (PPPM) Administration Fee is INCREASED by \$0.07. The new PPPM total is \$7.24.

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

Per vendor and agency agreement and DTMB Procurement approval.

Pass – Through Pricing means that the Contractor must pass-through, to the MDOC, all financial benefits (including, but not limited to, 100 percent pass-through of all rebates, and associated fees and revenue streams) obtained from all pharmaceutical manufacturers, wholesalers, and other sources. Additionally, the Contractor must not charge the MDOC more than the amount paid to a backup pharmacy. The only fee or revenue the Contractor may derive under this Contract is the agreed upon PMPM Administrative Fee. Any returns the Contractor receives from internal cash management/cash investment strategies, including prepayments or prompt payments are excluded from this definition and belong to the Contractor.

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

AUTHORITY/REASON:

Per agency request and DTMB Procurement approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$108,000,000.00

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET November 29, 2011
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
 OR
530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B2200047
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067 Email: deleca.barnes@maxorcps.com	TELEPHONE (615) 771-4674 Deleca Reynolds-Barnes CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-3768 Lance Kingsbury
Contract Compliance Inspector: Lia Gulick Pharmaceutical Services for Prisoners – Michigan Department of Corrections	
CONTRACT PERIOD: From: January 1, 2012 To: December 31, 2014	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT.

TOTAL ESTIMATED CONTRACT VALUE: \$108,000.000.00

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

CONTRACT NO. 071B2200047
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Maxor Correctional Pharmacy Services 416 Mary Lindsay Polk Drive, #515 Franklin, TN 37067 Email: deleca.barnes@maxorcps.com	TELEPHONE (615) 771-4674 Deleca Reynolds-Barnes CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-3768 Lance Kingsbury
Contract Compliance Inspector: Lia Gulick Pharmaceutical Services for Prisoners – Michigan Department of Corrections	
CONTRACT PERIOD: From: January 1, 2012 To: December 31, 2014	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT. The terms and conditions of this Contract are those of RFP #071I1300103, this Contract Agreement and the Contractor's quote dated April 6, 2011. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the Contractor, those of the State take precedence. Estimated Contract Value: \$108,000,000.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the RFP No. 071I1300103. Orders for delivery will be issued directly by the Department of Corrections through the issuance of a Purchase Order Form.

All terms and conditions of the Request for Proposal are made a part hereof.

FOR THE CONTRACTOR:

 Maxor Correctional Pharmacy Services
 Firm Name

 Authorized Agent Signature

 Authorized Agent (Print or Type)

 Date

FOR THE STATE:

 Signature
 Jeff Brownlee, Chief Procurement Officer

 Name/Title
 Purchasing Operations

 Division

 Date



STATE OF MICHIGAN
Department of Technology, Management and Budget
Purchasing Operations

Contract No. 071B2200047
Pharmaceutical Services for Prisoners

Buyer Name: Lance Kingsbury
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Table of Contents

DEFINITIONS	4
Article 1 – Statement of Work (SOW)	7
1.010 Project Identification	7
1.011 Project Request.....	7
1.012 Background.....	7
1.020 Scope of Work and Deliverables	8
1.021 In Scope.....	8
1.022 Work and Deliverable.....	8
1.030 Roles and Responsibilities	13
1.031 Contractor Staff, Roles, and Responsibilities.....	13
1.040 Project Plan	13
1.041 Project Plan Management.....	13
1.042 Reports.....	14
1.050 Acceptance	15
1.051 Criteria.....	15
1.052 Final Acceptance – Deleted N/A.....	16
1.060 Pricing	16
1.061 Pricing.....	16
1.062 Price Term.....	16
1.063 Tax Excluded from Price.....	16
1.064 Holdback – Deleted – N/A.....	17
1.070 Additional Requirements – Deleted – N/A	17
Article 2 – Terms and Conditions	18
2.000 Contract Structure and Term	18
2.001 Contract Term.....	18
2.002 Options to Renew.....	18
2.003 Legal Effect.....	18
2.004 Attachments & Exhibits.....	18
2.005 Ordering.....	18
2.006 Order of Precedence.....	18
2.007 Headings.....	18
2.008 Form, Function & Utility.....	19
2.009 Reformation and Severability.....	19
2.010 Consents and Approvals.....	19
2.011 No Waiver of Default.....	19
2.012 Survival.....	19
2.020 Contract Administration	19
2.021 Issuing Office.....	19
2.022 Contract Compliance Inspector.....	19
2.023 Project Manager.....	20
2.024 Change Requests.....	20
2.025 Notices.....	20
2.026 Binding Commitments.....	20
2.027 Relationship of the Parties.....	20
2.028 Covenant of Good Faith.....	20
2.029 Assignments.....	21
2.030 General Provisions	21
2.031 Media Releases.....	21
2.032 Contract Distribution.....	21
2.033 Permits.....	21
2.034 Website Incorporation.....	21
2.035 Future Bidding Preclusion.....	21
2.036 Freedom of Information.....	21
2.037 Disaster Recovery.....	21

2.040	Financial Provisions	22
2.041	Fixed Prices for Services/Deliverables	22
2.042	Adjustments for Reductions in Scope of Services/Deliverables	22
2.043	Services/Deliverables Covered	22
2.044	Invoicing and Payment – In General	22
2.045	Pro-ration	22
2.046	Antitrust Assignment	22
2.047	Final Payment	23
2.048	Electronic Payment Requirement	23
2.050	Taxes	23
2.051	Employment Taxes	23
2.052	Sales and Use Taxes	23
2.060	Contract Management	23
2.061	Contractor Personnel Qualifications	23
2.062	Contractor Key Personnel	23
2.063	Re-assignment of Personnel at the State’s Request	24
2.064	Contractor Personnel Location	24
2.065	Contractor Identification	24
2.066	Cooperation with Third Parties	24
2.067	Contractor Return of State Equipment/Resources	24
2.068	Contract Management Responsibilities	24
2.070	Subcontracting by Contractor	25
2.071	Contractor Full Responsibility	25
2.072	State Consent to Delegation	25
2.073	Subcontractor Bound to Contract	25
2.074	Flow Down	25
2.075	Competitive Selection	25
2.080	State Responsibilities	25
2.081	Equipment	25
2.082	Facilities	25
2.090	Security	26
2.091	Background Checks	26
2.092	Security Breach Notification	26
2.093	PCI Data Security Requirements – Deleted – N/A	26
2.100	Confidentiality	26
2.101	Confidentiality	26
2.102	Protection and Destruction of Confidential Information	26
2.103	Exclusions	27
2.104	No Implied Rights	27
2.105	Respective Obligations	27
2.110	Records and Inspections	27
2.111	Inspection of Work Performed	27
2.112	Examination of Records	27
2.113	Retention of Records	27
2.114	Audit Resolution	27
2.115	Errors	28
2.120	Warranties	28
2.122	Warranty of Merchantability	28
2.123	Warranty of Fitness for a Particular Purpose	28
2.124	Warranty of Title – Deleted – N/A	29
2.125	Equipment Warranty – Deleted – N/A	29
2.126	Equipment to be New – Deleted – N/A	29
2.127	Prohibited Products	29
2.128	Consequences For Breach	29
2.130	Insurance	29
2.131	Liability Insurance	29
2.132	Subcontractor Insurance Coverage	30
2.133	Certificates of Insurance and Other Requirements	31

2.140	Indemnification	31
2.141	General Indemnification	31
2.142	Code Indemnification.....	31
2.143	Employee Indemnification	31
2.144	Patent/Copyright Infringement Indemnification	31
2.145	Continuation of Indemnification Obligations.....	32
2.146	Indemnification Procedures.....	32
2.150	Termination/Cancellation	33
2.151	Notice and Right to Cure	33
2.152	Termination for Cause.....	33
2.153	Termination for Convenience	33
2.154	Termination for Non-Appropriation	33
2.155	Termination for Criminal Conviction	34
2.156	Termination for Approvals Rescinded.....	34
2.157	Rights and Obligations upon Termination	34
2.158	Reservation of Rights	34
2.160	Deleted – N/A	34
2.170	Transition Responsibilities	34
2.171	Contractor Transition Responsibilities.....	35
2.172	Contractor Personnel Transition.....	35
2.173	Contractor Information Transition.....	35
2.174	Contractor Software Transition.....	35
2.175	Transition Payments.....	35
2.176	State Transition Responsibilities	35
2.180	Stop Work	35
2.181	Stop Work Orders.....	35
2.182	Cancellation or Expiration of Stop Work Order	36
2.183	Allowance of Contractor Costs.....	36
2.190	Dispute Resolution	36
2.191	In General.....	36
2.192	Informal Dispute Resolution	36
2.193	Injunctive Relief	36
2.194	Continued Performance	37
2.200	Federal and State Contract Requirements	37
2.201	Nondiscrimination	37
2.202	Unfair Labor Practices.....	37
2.203	Workplace Safety and Discriminatory Harassment.....	37
2.204	Prevailing Wage – Deleted – N/A.....	37
2.210	Governing Law	37
2.211	Governing Law	37
2.212	Compliance with Laws.....	37
2.213	Jurisdiction.....	37
2.220	Limitation of Liability	38
2.221	Limitation of Liability	38
2.230	Disclosure Responsibilities	38
2.231	Disclosure of Litigation	38
2.232	Call Center Disclosure.....	38
2.233	Bankruptcy.....	39
2.240	Performance	39
2.241	Time of Performance.....	39
2.242	Service Level Agreements (SLAs)	39
2.243	Liquidated Damages – Deleted – N/A.....	40
2.244	Excusable Failure	40
2.250	Approval of Deliverables – Deleted – N/A	40
2.260	Ownership	40
2.261	Ownership of Work Product by State	40
2.262	Vesting of Rights	41
2.263	Rights in Data	41
2.264	Ownership of Materials.....	41

2.270	State Standards	41
2.271	Existing Technology Standards.....	41
2.272	Acceptable Use Policy.....	41
2.273	Systems Changes – Deleted – N/A.....	41
2.280	Extended Purchasing	42
2.281	MIDEAL	42
2.282	State Employee Purchases - Deleted – N/A	42
2.290	Environmental Provision	42
2.291	Environmental Provision.....	42
2.300	Other Provisions	43
2.311	Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials	43
Attachment A, Pricing		44
Attachment B		45

DEFINITIONS

24x7x365 means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

Additional Service means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

Audit Period means the seven year period following Contractor's provision of any work under the Contract.

Bidder(s) are those companies that submit a proposal in response to the RFP.

Brand Name Drug means a pharmaceutical that has a trade name, is patent protected and can be produced and sold only by the company holding the patent and that is labeled as such in a nationally recognized data source.

Business Day means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

Blanket Purchase Order is an alternate term for Contract and is used in the Plan Sponsors' computer system.

CCI means Contract Compliance Inspector.

Days means calendar days unless otherwise specified.

DEA Registration is a certificate issued by the Federal Drug Enforcement Administration (DEA) to physicians, dentists and mid-level providers which allows them to write prescriptions for controlled substances in the United States.

Deleted – N/A means that section is not applicable or included in this Contract. This is used as a placeholder to maintain consistent numbering.

Deliverable means physical goods and/or services required or identified in a Statement of Work.

Drug Control License is a license issued by the Michigan Board of Pharmacy to physicians and dentists allowing them to dispense medications directly to patients.

DTMB means the Michigan Department of Technology, Management and Budget.

Emergency Medication Box is a box that belongs to the facility and is not licensed to an individual physician or dentist. The box contains a supply of prescription medication to be used in case of medical emergency.

Environmentally Preferable Products means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to: those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

Generic Drug or Generic Pharmaceutical means a pharmaceutical designated as generic according to the pharmaceutical reporting services agreed upon pursuant to this contract.

Hazardous Material means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

Incident means any interruption in any function performed for the benefit of a Plan Sponsor.

Key Personnel means any personnel identified in **Section 1.031** as Key Personnel.

Keep on Person Medication (KOP) means those medications which have been determined are safe for the prisoner to possess.

Local Backup Pharmacy means a local pharmacy that the Contractor has negotiated preferred pricing with that supplies urgent/emergent medications that are needed for immediate use and cannot wait until the next daily mail order delivery.

Mail Order Services means the dispensing of prescriptions, by the Contractor's mail service, for delivery to MDOC facilities.

Managed Care Contractor (MCC) is the current contractor that provides on-site and off-site prisoner health care services,

MDOC/BHCS Formulary is a written list of prescription and non prescription medications that are authorized to be used to treat MDOC prisoners.

New Work means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.

Ozone-depleting Substance means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

Pass – Through Pricing means that the Contractor must pass-through to the MDOC all financial benefits (including, but not limited to 100 percent pass-through of all rebates, and associated fees and revenue streams) obtained from all pharmaceutical manufacturers, wholesalers, and other sources. Additionally, the Contractor must not charge the MDOC more than the amount paid to a backup pharmacy. The only fee or revenue the Contractor may derive under this Contract is the agreed upon PMPM Administrative Fee.

Physician Prescribing Box is a prescribing box that includes medications specified by the Medical Services Advisory Committee (MSAC) that physicians or dentists may use after they have obtained a Drug Control License. Medications can be dispensed from the box by the physician or dentist, or by a delegated RN under written or verbal order of the physician or dentist.

Per Prisoner Per Month (PPPM) Administrative Fee is a fee paid per prisoner per month to the Contractor for dispensing and administering the pharmacy services to MDOC facilities.

Post-Consumer Waste means any product generated by a business or consumer which has served its intended end use; and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

Post-Industrial Waste means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

Recycling means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

Restricted Medication means those medications which have been identified in the MDOC/BHCS Formulary as restricted or those which the prescriber or registered nurse has determined are unsafe for the patient to possess.

Reuse means using a product or component of municipal solid waste in its original form more than once.

Routine Medication means medications that can be dispensed through the normal course of business and can be filled through the mail order process with receipt being the next business day.

RFP means a Request for Proposal designed to solicit proposals for services.

Services means any function performed for the benefit of the State.

SLA means Service Level Agreement.

Source Reduction means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

State Location means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

Subcontractor means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

Unauthorized Removal means the Contractor's removal of Key Personnel without the prior written consent of the State.

Urgent/Emergent Medication means that the medication is clinically needed sooner than the next business day and that an alternative method will need to be utilized to get the medication. These medications must be able to be received within four hours of placing the order.

Waste Prevention means source reduction and reuse, but not recycling.

Pollution Prevention means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

Work in Progress means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

Work Product refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by the Contract.

Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Contract for Statewide purchase and delivery of pharmaceuticals for prisoners housed in the Michigan Department of Corrections (MDOC) facilities and active analysis and support of prescribing patterns, costs and formulary toward maximum efficacy and efficiency, and to minimize waste and cost. The services required in this Contract include: mail order dispensing and processing, delivery, local backup pharmacies for all MDOC correctional facilities, operation of an on-site pharmacy located at Duane Waters Health Center (DWH) in Jackson, MI, and active leadership in Pharmacy and Therapeutics processes and reporting. The operation of the DWH pharmacy includes staffing the pharmacy utilizing existing civil servant staff (two pharmacists and five pharmacy assistants), supplementing additional staff as needed, and ownership of the pharmaceutical inventory until the pharmaceuticals are dispensed for prisoners housed in MDOC facilities. The pharmacy primarily supplies the Duane Waters Health Center and the Egeler Reception Center.

The Contract is to be effective October 19, 2011 through December, 2014.

The period of October 19, 2011 through December 31, 2011 will be for implementation and transition for the Contractor; no payment will be made to the Contractor during this period. The Contractor must begin providing all Services, without interruption, on January 1, 2012.

1.012 Background

The staffing and management of the on-site pharmacy includes a mix of civil servants and contractual positions and the utilization management of pharmaceutical prescribing practices.

The MDOC provides medically necessary care, which includes pharmaceuticals, to approximately 46,000 prisoners at 32 correctional facilities and two residential re-entry facilities.

The MDOC MCC must utilize pharmaceuticals from this Contract. The MCC will ensure properly trained Primary Care Providers utilize the electronic modality for writing pharmaceutical prescriptions. All billing for pharmaceuticals must be directly to the MDOC, with the exception of medications that the MCC is using through an MDOC approved subcontract to provide medically necessary care to specialized prisoner populations (i.e. dialysis, chemotherapy).

In addition to the facilities mentioned, the MDOC has an inpatient health center in Jackson, MI that houses the most critically ill prisoners and a psychiatric inpatient unit at Woodland Correctional Facility and Huron Valley Womens Correctional Facility. The response time for pharmaceutical orders for the inpatient units must be filled on an urgent and emergent basis and will require a 24 hour, seven day per week operation.

MDOC and contractual Psychiatrists are responsible for prescribing psychotropic medications for prisoners housed at the MDOC facilities. These medications are in scope in this Contract and are a pass-through cost to the MDOC. Complete transparency is required.

The MDOC Chief Psychiatric Officer (CPO) is responsible for considering recommendations from the Contractor regarding changes to the formulary and changes in practice or policy.

There are male, female, and youth intake centers. The male intake center normally receives prisoners for an average of 30 days before transfer to a permanent facility. Prisoners arriving at intake with current medication orders must have those medications refilled on the same day that they arrive into the MDOC system.

The MDOC will provide daily census information to the Contractor for eligibility verification and prisoner location in an electronic format.

The MDOC has an electronic medical record that is a NextGen product. There is a medication module as part of the EMR and includes e-prescribing. The MDOC may be investing in an emar/pharmrx system which the Contractor would be required to utilize or to interface with the Contractor's electronic system.

The MDOC, through the Chief Medical Officer (CMO) and the CPO, reserves the right to purchase hemophiliac products and other medications utilizing 340B pricing from other sources, at the sole discretion of the MDOC, throughout this Contract period.

The MDOC reserves the right to move to stock delivery should Michigan law allow it, at various sites/populations. Current Michigan Law does not allow for the use of floor stock.

The MDOC has the final approval of all formulary changes. The Contractor must proactively analyze and recommend formulary changes to maximize quality and minimize costs to the State. This includes notification of upcoming brand to generic changes, new releases of brand drugs, and other industry changes that may affect the MDOC.

The State will perform security background checks, which will include a LEIN check. The Contractor must provide to the State a list of all staff working on-site at State of Michigan correctional facilities, including name and date of birth. A social security number or driver's license number is required.

The MDOC has a third party reviewer that will assist MDOC in assessments of services provided under this Contract, including, but not limited to: trends and utilization management, as well as assisting in the review and enforcement of the Service Level Agreements (SLAs). The Contractor must provide all requested information to the third party reviewer, copying the MDOC Contract Compliance Inspector (CCI). The Contractor does not have any financial responsibility for the payment of the third party reviewer.

MDOC facilities are all ACA Accredited. All services provided in this contract must be in compliance with ACA standards.

Michigan Law currently does not require pedigree certification. Should Michigan Law change during the duration of this Contract, and any optional renewal periods, the Contractor must comply with the new law within the timeframe spelled out in the law and within the price quoted in the Contract.

1.020 Scope of Work and Deliverables

1.021 In Scope

The Contractor must provide the following products and services under this Contract:

1. Mail order pharmacy with capability of automatic refills from an electronic prescribing system
2. Onsite pharmacy (one site)
3. Delivery of medications sorted and bundled by prisoner on a daily basis
4. Generic Medication
5. Training
6. Quality Assurance
7. Audits
8. Rebates/Discounts/Revenue
9. Returned Medication
10. Electronic Check in
11. Disposal of medication
12. Local Backup pharmacies for emergency purchases with negotiated rates less than retail
13. Formulary and Utilization Management
14. Data Management
15. Electronic Medication Administration Record
16. Michigan-specific solution to providing pharmacy services that maximizes the use of Michigan labor force

1.022 Work and Deliverable

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

1. Mail order pharmacy with electronic ordering and capability of automatic refills.
 - a. Transmission of prescription orders via an electronic modality that must interface with the MDOC electronic medical record in all facilities.
 - i. Identification of the system/means of transmission, provide, install, and maintain required necessary equipment, supporting hardware and software, and provide necessary training to accomplish the capability to function in an electronic environment. Equipment/system used by the Contractor must, at a minimum provide the following capabilities at each facility:
 1. Provide properly labeled medications including; prisoner name and number, date of birth, route and times of administration, total number of doses or days of medication, discontinuance date, and expiration date.
 2. Provide up to date formulary information in an electronic system.
 3. Provide for an electronic alert that the refill requested is too soon.
 4. Provide patient medication profile

5. Include bar coding on all prescriptions.
6. Provide notifications of contraindications (e.g. drug interactions, drug allergy, incorrect dose, non-formulary, etc.)
7. Provide the ability to print a hard copy at the facility for all orders transmitted.
8. Provide an alternative means of transmitting prescription orders in the event the primary system is non-operational.
9. Interface with the MDOC prisoner tracking system (CMIS/OMNI) to ensure medications are delivered to the appropriate facility, interface with the MDOC electronic medical record, e-prescribing, and the MDOC eMar/PharmRX once available.
10. Provide patient information packets that must be sent with all medication orders.
 - ii. Provide the capability of automatic refills for all non-PRN (Pro Ra Nada, meaning as needed) medications that do not require MDOC staff input to generate the auto refill.
 - iii. Provide a mechanism to ensure duplicate orders are not processed.
 - iv. Provide a process to review, authorize, and report on high cost drugs by site and prescriber and other relevant details.
 - v. The Contractor must have a process for splitting pills when cost effective and the criteria for determining a medication can be appropriately split. A listing of pills currently being split would be helpful.
 - vi. Provide a process for release medications that will be given to prisoners paroling or discharging from MDOC facilities, which must incorporate the use of the Pharmaceutical Medication Access Programs (free medication program).
 - vii. Provide a proactive analysis of refill frequency and intervene to ensure medications are not refilled too soon, utilizing best practices related to refill-too-soon requests.
- b. Provide a Non-formulary request system.
 - i. The dispensing system must assure that inmate medication is in accordance with MDOC's drug formulary (see Attachment B – MDOC Clinical Formulary).
 - ii. A documented mechanism must be in place to allow the MDOC CMO or designee to authorize non-formulary or alternate medication where clinical need dictates.
 - iii. The Contractor must establish a non-formulary approval process and a feedback mechanism to the CMO/RMO in the event a non-formulary medication is ordered without the appropriate use of a non-formulary request form. This feedback system must be such that the continuity of patient care is not compromised or unduly disturbed with respect to expediting the medication order.
 - iv. When "10-day" emergency non formulary medication is prescribed, the Contractor must ensure the system does not allow refill without approval past the 10 days.
- c. Provide the pharmaceuticals for the physician prescribing boxes maintained by the on-site primary care provider, the emergency box, and the mental health provider boxes. The MDOC CMO will approve the pharmaceuticals that must be included in the prescribing boxes.
- d. The medication error rate must not be more than 0.05 percent each month for each institution. The Contractor must have a medication error review process to include electronic tracking, reporting and trending of dispensing and administrative errors.

2. On-site Pharmacy

- a. The Contractor is responsible for the ownership and management of the on-site pharmacy at DWH.
- b. The Contractor, in cooperation with the MDOC, shall complete a physical inventory of all medication stock at Contract start. The Contractor must utilize all existing MDOC owned medications until they are all dispensed and must then replace with their own inventory.
- c. The Contractor must provide bulk pharmaceuticals to the on-site pharmacy.
- d. The Contractor must complete all inventories of the onsite pharmacy.
- e. The Contractor must utilize existing civil servant staff (two pharmacists and five pharmacy assistants) and supplement additional Contractor staffing as needed.
- f. The Contractor is the owner of the pharmaceuticals at the on-site pharmacy until they are dispensed for use by the MDOC prisoners.
- g. Pharmaceuticals dispensed from the on-site pharmacy must be in blister cards or single doses.
- h. DWH pharmacy operating hours are 7:00 a.m. – 7:00 p.m. Monday – Friday and 8:00 a.m. – 4:30 p.m. weekends and holidays.
- i. Pharmacists must be available to answer pages and come to the facility after hours.

3. Delivery of medications (mail order)

- a. Mail Order
 - i. Pharmaceuticals must be in blister cards and must be sorted and bundled by prisoner.
 - ii. Restricted medications must have clearly identifiable labeling.

- iii. Psychotropic medications must be separated by prisoner for ease of identification.
 - iv. Pharmaceuticals must be dispensed in blister cards or similar unit dose packaging, providing accountability of drugs administered, security, cost effectiveness, and ease of storage and distribution. Prescription packaging must be labeled to meet MDOC, State and federal labeling requirements.
 - v. Blister cards must have the capability to contain a 30 day supply of pharmaceuticals or the specific quantity ordered by the on-site medical provider.
 - b. On-site Pharmacy
 - i. The Contractor must supply bulk pharmaceuticals to the on-site pharmacy at DWH.
 - ii. The Contractor must have the ability to supply compound intravenous solutions to the inpatient units.
 - c. Delivery schedule
 - i. The Contractor must deliver routine dispensed pharmaceutical orders received by the mail order pharmacy by 3:00 p.m. Eastern Standard Time (EST) the day following the transmission of the prescription order from the MDOC facility to the mail order pharmacy.
 - ii. Routine delivery will be Monday through Saturday within the next business day of receipt of the order.
 - iii. Routine delivery is not expected on the following holidays: Christmas (December 25), New Year's Day (January 1), Memorial Day, Martin Luther King Day, Labor Day, and Thanksgiving. Deliveries are expected to happen on the day after Thanksgiving Day, Veterans Day, Independence Day, Christmas Eve and New Year's Eve. The Contractor must provide a satisfactory plan for holiday and emergency deliveries. The plan must be approved by the CCI.
 - iv. The Contractor must provide emergency delivery of medication within four hours of placing the order. Emergency delivery must be available 24 hours per day, seven days per week.
 - v. All delivery costs are the responsibility of the Contractor including any fuel surcharges or additional shipping costs, including delivery of pharmaceuticals purchased at local pharmacies.
- 4. Generic Medication
 - a. Formulary medication must be generic whenever possible. If a generic medication cannot be used for a specific patient, a non-formulary request must be initiated by the on-site primary care provider for both the medical and mental health disciplines.
 - b. Generic medication must be substituted for brand name unless otherwise indicated by the primary care provider on a non-formulary request form. See Attachment B for the MDOC Clinical Formulary. The Contractor must ensure availability of generic substitutes and report reasoning for any unavailability and plan target dates for provision thereof.
 - c. Branded drugs or other preapproved bioequivalent substitutes must be offered at the same acquisition cost of the prescribed generic product, when generic medication is out of stock. The Contractor must provide documentation of the substitution as part of their monthly reporting package.
 - d. The Contractor must review the drugs that have gone generic on a monthly basis and provide a report of the utilization of the brand drug and the utilization of the generic equivalent to document the transition of the drug. Contractor must dispense generic drug within 30 days of the release of the generic drug.
- 5. Training
 - a. The Contractor must provide on-site training during system implementation for any software and/or enhancements. Assistance must be provided to MDOC in the development of in-house trainers for on-going familiarization and training of the MDOC staff.
 - b. The Contractor must provide an initial operation manual and subsequent updates for distribution to all MDOC facilities related to the process associated with this Contract.
 - c. The provision of updated training materials to the MDOC, as needed.
 - d. All training will be provided to the MDOC free of charge.
- 6. Quality Assurance
 - a. The Contractor must work in conjunction with the MDOC Bureau of Healthcare Services Quality Assurance staff.
 - b. The Contractor must participate in the monthly Medical Services Advisory Council (MSAC) and other required meetings.
 - c. The Contractor must submit and maintain a quality assurance plan. The plan must be approved by the MDOC Quality Assurance Administrator and will be reviewed and updated annually.
 - d. The Contractor must be a regular member of the Quality Assurance Team.

- e. The Contractor must report on the following benchmarks and trends:
 - i. Stock out rates per 10,000
 - ii. Error rates per 10,000
 - iii. Percent of spend against total spend in the following categories
 - 1. HIV
 - 2. Psychotropic meds
 - 3. Hep C
 - iv. Comparison with other states and trend over time

7. Audit Functions

- a. Quarterly Audit by Consultant/Contractor Pharmacists
 - i. The Contractor must provide for quarterly audits of MDOC institutions verifying inventories, expired medications, disposal of medications, MDOC processes related to medication security (medication box seals and logs), etc.
 - ii. Ensure consistency with the State of Michigan pharmacy requirements.
 - iii. Review MDOC pharmacy process for statewide consistency.
- b. Annual Third Party Review
 - i. Participate as a team member in an annual third party review of statewide pharmacy operations that includes, but is not limited to: medication returns, disposal, excess on site supply of medications (greater than 35 days), etc.
 - ii. Review criteria will jointly be established by the Contractor, MDOC, and the Third Party Reviewer within 60 days of the Contract start date.

8. Rebates/Discounts/Revenue

- a. The Contractor must provide complete transparency and an audit trail for all discounts, rebates, and other revenue to the MDOC on a quarterly basis.
- b. The Contractor must fully disclose the types of rebates/discounts/revenue they are currently receiving.
- c. The Contractor must participate in a revenue audit upon completion of the first year of the Contract. Failure to disclose all revenue to the MDOC as a result of the revenue audit finding may constitute a material breach of the Contract and could result in Contract termination.

9. Returned Medication

- a. The Contractor must provide a method for return and credit for all medications returned in accordance with Michigan Public Act 6201 of 2004.
- b. The Contractor must identify which medications can be returned and the credit that will be issued to the department on a monthly basis. The Contractor must provide credit for reimbursement for all medication returns at the dispensed price.
- c. The Contract must provide credit for split medications.
- d. Expenses including shipping costs of the returned medication are the responsibility of the Contractor.
- e. The Contractor must provide written documentation of all drugs returned for credit and disposal including the justification when credit is not given.
- f. All returns must be addressed within seven days of receipt of the return. The report must be provided back to the institution documenting the credit by drug and the reason for no credit. This must reconcile to the returns submitted by the facility and must be submitted to the facility bi-monthly.
- g. The Contractor must provide a reconciliation method for returned and disposed medications that reconciles to the return log based on the date dispensed. The returns/disposals must be reconciled in the month following the month of return.
- h. The State will not pay any fees for processing the return of any drugs at anytime throughout the duration of the Contract. This includes, but is not limited to: expired medication returns, shipping errors, etc.
- i. The Contractor must have a documented process to address discontinued medications and recalls of medications. These protocols shall include, but not be limited to: notification procedures, timeframes for notification, and methods of returning or disposing of recalled medications.

10. Electronic check-in system

- a. The Contractor must provide a mechanism for electronic check in for all medication orders at no cost to the MDOC. This will include, but will not be limited to, the scanning in of orders, reconciliation of shipment received to invoice/original order, and medication returns.
- b. All equipment/software (bar code scanners, etc.) needed for the electronic process shall be provided to the MDOC at no cost.

11. Disposal of Medication

- a. The Contractor must provide a consistent Statewide mechanism for the disposal of all medication including restricted and narcotic medications. All costs associated with the disposal of medications are the responsibility of the Contractor.
- b. The Contractor should utilize a best practice for disposal of single dose, non-narcotic medications on site, which must be approved by the MDOC.

12. Local Backup pharmacies

- a. The Contractor must provide local back-up pharmacy distributor/suppliers to provide pharmacy services in the event that the Contractor cannot provide the required pharmaceuticals, in the timeframe required, via mail order.
- b. The orders from the local pharmacy must be for seven days or less. The local pharmacy mechanism must be used in the event the medication is required prior to the next business day.
- c. Delivery requirements of back-up pharmacy services should be within the operation hours of the pharmacy and within the same business day of receipt of the order.
- d. The Contractor is responsible for all pharmaceuticals purchased for the local pharmacies.
- e. The Contractor is responsible for arranging delivery to the MDOC facility and is responsible for all delivery costs to the facility.
- f. The backup pharmacy shall be within 30 miles of the correctional facility. For areas where a local pharmacy is not within 30 miles, the Contractor must state the pharmacy that will be used and the distance from the facility.
- g. The Contractor must negotiate pharmaceutical pricing with the local back up pharmacies. The rate shall not exceed 150 percent of the mail order rates.
- h. The Contractor must implement a process that includes a preauthorization mechanism for all local pharmacy purchases, which must be approved by MDOC.

13. Formulary and Utilization Management

- a. The Contractor must provide 24 hour, seven days per week consulting services related to advising on drug of choice, educating clinicians on drug interactions, new drug protocols, and therapeutic utilization and support. The Contractor must maintain a toll free 800 number for consulting services. The Contractor must provide emergency and routine consultations regarding all phases of the institutional pharmacy operation. These consultations can be requested on-site, or via tele- or video-conferencing.
- b. The Contractor must participate as a member of the clinical management team (MSAC) that discusses prescribing practices, poly-pharmacy, and other pharmaceutical related issues.
- c. The Contractor must provide electronic access to updates of pharmaceutical supplies, medication, pricing, and news releases.
- d. The Contractor's system must provide real-time polypharmacy alert electronically as provider enters medication order.
- e. The Contractor must provide formulary compliance reporting related to provider prescribing practices reports.
- f. The Contractor must provide notification when a medication has a generic equivalent that is on the formulary when a non-formulary request is being completed.
- g. The Contractor must provide prospective and retrospective provider education (case by case and globally).

14. Data

- a. The Contractor must provide an internet secure web-based integrated reporting system for the MDOC and MDOC medical vendors use that provides up to date data (previous days orders must be viewable) on all pharmaceuticals ordered for all MDOC sites utilization management. Access to the web based software must be at no cost with unlimited users both MDOC and MDOC contracted vendors.
- b. The Contractor must provide a mechanism for data transmission to the MDOC including examples of the data fields that will be included in the transmission for monthly transmission.
- c. All data related to this Contract cannot be sold or otherwise used for any purpose other than the purpose of this Contract.
- d. The data fields will be agreed upon by the Contractor and the MDOC.
- e. The Contractor must provide the process to turn all of the data over to the MDOC upon contract expiration. The process must be approved by the MDOC CCI.
- f. The Contractor must utilize the MDOC eMar/PharmRX system should the State choose this option or interface with the system at the Contractor's cost.

15. Electronic Medication Administration Record including software and equipment.

MDOC owned eMar/PharmRX

- i. The Contractor must use the MDOC system. If the Contractor chooses to interface the MDOC system with their system, the Contractor is responsible for all interface costs.
- ii. The Contractor must use an HL7 format.
- iii. The MDOC Emar will not be available at the start of the Contract so the Contractor must provide paper MARS until such time that the MDOC Emar is available.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

The Contractor must provide staff as necessary to provide all Services required in this Contract. Specific staff requirements are listed below; however, Contractor must provide any additional staff needed to meet the requirements of this Contract.

1. Following are considered Key Personnel and are required for this Contract:
 - a. Pharm D that serves as the point of contact for this Contract and will be responsible for and have the authority to resolve issues that affect multiple institutions. The Pharm D provides consulting support in every aspect of the pharmacy services. Services must include advising on drug of choice, drug utilization, drug interactions, and research. This person will be part of the Pharmacy and Therapeutics Committee and the Medical Services Advisory Committee. The position will work with the MDOC and the managed care contractor related to provider prescribing practices, ordering utilization, and drug interaction education. This position must be based in Michigan.
 - b. Project Manager that provides contractual oversight for the day to day operations of this Contract. This position is also responsible for the management of the on-site pharmacy at Duane Waters Health Center. This position must be based in Michigan.
 - c. Pharmacist available 24 hours per day, seven days per week to process requests for emergency medication, provide clinical pharmacy consultation, and to minimize expense for back-up pharmacy services. On-call services may be utilized to supplement these services on weekends and holidays.
 - d. Lead Pharmacist will serve as a point of contact for this Contract and will be responsible for, and have the authority to resolve, issues that affect multiple institutions
2. All pharmacists providing medication for prisoners housed in Michigan facilities must have State of Michigan Pharmacy licenses.
3. Other Contractor Staff, Roles and Responsibilities:
 - a. Pharmacists - for the onsite pharmacy at Duane Waters Health Center.
 - b. Electronic on-line and telephone access to customer service representatives 24 hours per day, seven days per week.
 - c. MDOC must approve any communication prior to information on new medications being solicited to the medical providers.
 - d. Participation in monthly/quarterly meetings (Quality Assurance, contract meetings, other medical meetings as requested).
 - e. All employees of the Contractor are subject to complete background investigations. The Contractor's employees must complete the security clearance application process and all required training.
 - f. The MDOC reserves the right to deny any employee of the Contractor access to its institutions, information or to their clients as a result of confidential information obtained during the course of the security clearance process or for violation of MDOC policy and procedure.
 - g. Provide requested information to the third party reviewer within five business days of request by the CCI.
 - h. Participation in the annual third party review team.
4. An organization chart, including Key Personnel, must be provided to the CCI and updated as needed.

1.040 Project Plan

1.041 Project Plan Management

1. Start Up Plan
All costs as part of the transition are the responsibility of the Contractor. The State will not pay for start-up costs.

2. Transition Plan

The high level transition plan must include, but is not limited to:

- a. Staffing plan
- b. Communications plan including meetings, and status/updates
- c. eMAR implementation plan
- d. Emergency services plan
- e. Pharmaceutical utilization management plan
- f. Quality improvement plan
- g. Data management plan, security of data, and disaster recovery plan
- h. Local backup pharmacies
- i. Rebate/discount/revenue calculation methodology
- j. Data transmission plan
- k. Interface development and testing (NextGen, Omni, eMar/PharmRX)
- l. Testing of reports and access

3. On-going Project Plan

The on-going project plan must include a timeline that illustrates how the Contractor will manage the on-going rendering of services, ensure completion of the scope of services and accomplish required objectives with the State's time guidelines. The project plan must include, but is not limited to the following, and must be reviewed and updated on a regular basis:

- a. Staffing plan
- b. Communications plan
- c. eMAR support and service plan
- d. Emergency services plan
- e. Pharmacy utilization management plan
- f. Quality improvement plan
- g. Data management, security of data, and disaster recovery plan
- h. Local backup pharmacies
- i. Data transmission plan

4. Contract Closeout Plan

- a. Upon termination of this Contract, either through expiration or a termination prior to expiration, the Contractor must provide for a reasonable period of time after the expiration of this project or Contract, all reasonable transition assistance requested by the MDOC, to all of the expired or termination portion of services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the MDOC or a new contractor. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract.
- b. The Contractor must provide a process for closing out the Contract at Contract end/termination.
- c. The Contractor must address invoice reconciliation past contract for six months.

1.042 Reports

The Contractor must provide, at a minimum, the following reporting requirements:

1. The Contractor must provide a seven day and a 30 day electronic medication administration record reporting mechanism to the State at no cost.
2. The Contractor must also provide any requested reports for State employees unable to access to utilize the reporting system. Reports will be submitted in a non-pfd electronic format such as excel, via email, to the CCI.
3. The Contractor must provide reports available through their web based reporting system.
4. The Contractor must also work collaboratively in the collecting and reporting of data and in the development of indicators to be measured and standard reports for management and administrative purposes. These will include, but are not limited to, reports monitoring provider prescription practices against the MDOC formulary and any reports necessary for cost audit purposes.
5. The Contractor must prepare an annual boilerplate report related to pharmacy utilization as compared to other states by Feb 1 each year. See Section 813 of Senate Bill 1153 of 2010.
6. Quarterly Rebate reports that include the following data elements: manufacturer/wholesaler/other source, by product, NDC (11 digit), number of claims, quantity, total sales, total rebate dollars, total administrative fee dollars, total of all dollars received, total for manufacturer, summary totals by manufacture/wholesaler/or other source of rebate, rebates per Rx for time period, rebates per brand Rx for time period, top 25 rebate products, source of rebate, date rebated received from manufacturer/wholesaler/other source.
7. The following monthly reports must be provided:

- a. Monthly reporting by dates, costs, site, prescriber, patient, drug or drug category National Drug Code (NDC), date shipped, utilization, or any combination.
 - b. Monthly reporting of drug returns including drugs returned, amount of credit, and if no credit given the reason why.
 - c. Monthly reporting of prescription errors.
 - d. Monthly report of clinical interventions.
 - e. Monthly report of brand name drug substitutions.
 - f. Monthly report of prescriptions needing to be refilled.
 - g. Utilization of brand name drugs and their subsequent generic equivalent when they become available.
 - h. Encounter data report for both mail order pharmacy and the backup pharmacies that document utilization by prisoner.
 - i. Report of psychotropic drug utilization by drug and by provider.
 - j. Prison specific profile reports that include backup pharmacy and regular medications dispensed.
 - k. Detailed report of quarterly rebates/discounts/revenue including the rebate/discount/revenue type.
8. Reports must be provided at no cost to the State.
 9. The Contractor must report and track any cost savings initiatives.
 10. Failure to submit reports within the timeframes identified may be considered a breach of Contract, and may result in the cancellation of the Contract.
 11. The Contractor must obtain the State's written approval prior to publishing or making formal public presentations of statistical or analytical material based on its prisoners other than as required by this Contract, statute, or regulation.
 12. The State reserves the right to amend the list of required reports throughout the Contract period.

1.050 Acceptance

1.051 Criteria

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

1. **Mail order pharmacy with capability of automatic refills and appropriate alerts for refill to soon** – Acceptance will be when the Contractor successfully receives and fills prescription orders from all MDOC facilities and the refill too soon alert is tested. Confirmation will be made to the CCI that the Contractor has received and filled prescription orders from each facility and documentation of the refill too soon alert.
2. **Onsite pharmacy** – Acceptance will be when the Contractor has completed the physical inventory, hired appropriate staff, and protocols are in place and confirmed to the CCI.
3. **Delivery of medications sorted and bundled by prisoner** – Acceptance will be when the facilities receive the first delivery of prescriptions that are sorted and bundled by prisoner with restricted medications properly labeled and separated from regular prescriptions. Confirmation will be to the CCI from the MDOC facilities.
4. **Generic Medication** - Acceptance will be after the first month is completed and a review of pharmaceuticals has been completed by the MSAC assuring compliance to generic medication usage and reported to the CCI.
5. **Training** – Acceptance will be after all site staff have been trained in the protocols/processes of the Contractor and training on any new systems that the Contractor is supplying. Confirmation will be from the sites to the CCI.
6. **Quality Assurance** – Acceptance will be with the MDOC Quality Assurance Administrator provides written approval of the Contractor's Quality Assurance Plan.
7. **Rebates/Discounts/Revenue** - Acceptance will be when the Contractor successfully participates in a revenue audit with no findings.
8. **Returned Medication** – Acceptance will be when the Contractor has accepted the returned medications and provided the required report documenting all medications returned, the amount of credit, the medications disposed of, and the reason for no credit. Confirmation will be when the sites reconcile the return report to their log of returned medications and report to the CCI that they reconcile.
9. **Electronic Check in** – Acceptance will be when the sites acknowledge that the electronic check in of medications has successfully been completed, meaning that the medication is checked in at the desk via a scanner and the subsequent medication automatically shows up on the eMAR. Confirmation will be from the sites to the CCI.
10. **Disposal of medication** – Acceptance will be when the Contractor provides a protocol for disposal of medication, providing a mechanism for all medications that need disposal. The protocol will be provided to the CCI for acceptance.
11. **Local Backup pharmacies for emergent purchases with negotiated rates less than retail** – Acceptance will be when the Contractor provides a listing of the local backup pharmacies for each site and the discount rate to the CCI.

12. **Formulary and Utilization Management** – Acceptance will be when the Contractor provides a utilization management plan and after the first month review of the MSAC with a report back to the CCI.
13. **Data** - Acceptance will be when the Contractor submits monthly data to the MDOC in a manner that conforms to the MDOC needs. Confirmation will be to the CCI that the data transfer has been successfully completed.
14. **Electronic Medication Administration Record (Contractor owned)** – Acceptance will be after the eMAR has been installed and all necessary equipment and training has been provided to all MDOC facility staff. Confirmation will be after each site acknowledges that the system is up and running correctly including documenting receipt and delivery in the eMAR and interfaced with the MDOC electronic medical record.
15. **Electronic Medication Administration Record (MDOC owned)** - Acceptance will be after the Contractor demonstrates their ability to perform the key processes in this Contract as they relate to the medication administration record (populating the emar either via direct entry or interface). Confirmation will be when the Contractor successfully provides the CCI with a completed eMar.

1.052 Final Acceptance – Deleted N/A

1.060 Pricing

1.061 Pricing

See Attachment A and the details below.

1. Administrative Fee - PPPM
 - a. The MDOC will prepay the administrative fee on a monthly basis on the fifth day of each month based on the previous month census.
 - b. The Contractor must detail out all items included in the administrative fee.
2. Acquisition cost of medications
 - a. The Contractor must bill the MDOC on a monthly basis. Invoices must be submitted directly to MDOC.
 - b. The Contractor must disclose how they are calculating the actual acquisition cost including a discount rate if applicable.
 - c. The Contractor must disclose their drug wholesaler(s) and any ownership or partnership or membership relationships.
3. Rebates
 - a. The Contractor must provide 100 percent of all rebates/discounts/revenue to the MDOC on a quarterly basis. This includes all retroactive rebates paid in a quarter an annual basis in addition to those provided at the time of order. The checks must be mailed to:
State of Michigan
Department of Corrections
P.O. Box 30001
Lansing, MI 48909
Attn: Terese London
4. Prompt Payment Discount
5. Other Costs
 - a. The Contractor must provide a detail of all other costs associated with the Contract.
 - b. All software, scanners, other supplies, and training will be at no cost to the MDOC.

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dtmb for current rates.

1.062 Price Term

Per Member Per Month prices are firm for the duration of this Contract.

1.063 Tax Excluded from Price

(a) Sales Tax: For purchases made directly by the State, the State is exempt from State and Local Sales Tax. Prices must not include the taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

1.064 Holdback – Deleted – N/A

1.070 Additional Requirements – Deleted – N/A

Article 2 – Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

The Contract is for a period of three years beginning January 1, 2012 through December 31, 2014. The period of October 19, 2011 through December 31, 2011 will be for implementation and transition for the Contractor; no payment will be made to the Contractor during this period. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

The Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to four additional one year periods.

2.003 Legal Effect

Contractor must show acceptance of the Contract by signing two copies of the Contract and returning them to the Contract Administrator. The Contractor must not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

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

2.004 Attachments & Exhibits

All Attachments and Exhibits affixed to any and all Statement(s) of Work, or appended to or referencing the Contract, are incorporated in their entirety and form part of the Contract.

2.005 Ordering

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under the Contract. All orders are subject to the terms and conditions of the Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown; however, the Contractor must furnish all such materials and services as may be ordered during the Contract period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 Order of Precedence

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of the Contract, which may be modified or amended only by a formal Contract amendment.

2.007 Headings

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

2.008 Form, Function & Utility

If the Contract is for use of more than one State agency and if the Deliverable/Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.009 Reformation and Severability

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

2.010 Consents and Approvals

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

2.011 No Waiver of Default

If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.012 Survival

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.020 Contract Administration

2.021 Issuing Office

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

Lance Kingsbury
Purchasing Operations
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: kingsburyl@michigan.gov
Phone: 517-241-3768

2.022 Contract Compliance Inspector

After DTMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with the Michigan Department of Corrections, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of the Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB Purchasing Operations.** The CCI for the Contract is:

Lia Gulick, Manager - Financial Services Unit
Michigan Department of Corrections
206 E. Michigan Ave.
Lansing, MI 48909
Email: GulickL@michigan.gov
Phone: 517-241-9902
Fax: 517-335-0871

2.023 Project Manager

The following individual will oversee the project:

Sandra Maes, Health Services Administrator for the Bureau of Health Care Services.
Michigan Department of Corrections
206 E. Michigan Ave.
Lansing, MI 48909
Email: MaesS@michigan.gov
Phone: 517-241-0587
Fax: 517-335-0871

2.024 Change Requests

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

If the Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under the Contract, describing the Change and its effects on the Services and any affected components of the Contract (a "Contract Change Notice").
- (b) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the DTMB-Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

2.025 Notices

Any notice given to a party under the Contract must be deemed effective, if addressed to the State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system. Either party may change its address where notices are to be sent by giving notice according to this Section.

2.026 Binding Commitments

Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in the Contract. Contractor may change the representatives from time to time upon written notice.

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

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

2.029 Assignments

(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the requirements of the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign the Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

2.030 General Provisions

2.031 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and 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 from the State. No results of the activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

2.032 Contract Distribution

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

2.033 Permits

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

2.034 Website Incorporation

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

2.035 Future Bidding Preclusion

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

2.036 Freedom of Information

All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

2.037 Disaster Recovery

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

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

Each Statement of Work or Purchase Order issued under the Contract must specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.042 Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under the Contract is subsequently reduced by the State, the parties must negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

2.043 Services/Deliverables Covered

For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under the Contract, the State must not be obligated to pay any amounts in addition to the charges specified in the Contract.

2.044 Invoicing and Payment – In General

(a) Each Statement of Work issued under the Contract must list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(b) Each Contractor invoice must show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) Invoices must reflect actual acquisition cost for pharmaceuticals and must be billed to the MDOC on a monthly basis. Administrative fee will be prepaid on the fifth day of each month during the Contract duration. Rebates will be provided to the MDOC on a quarterly basis. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) must mutually agree upon. The schedule must show payment amount and must reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.045 Pro-ration

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services must be pro-rated for any partial month.

2.046 Antitrust Assignment

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of the Contract.

2.047 Final Payment

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with the Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under the Contract must constitute a waiver of all claims by Contractor against the State for payment under the Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.048 Electronic Payment Requirement

Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

2.050 Taxes

2.051 Employment Taxes

Contractors are expected to collect and pay all applicable federal, State, and local employment taxes.

2.052 Sales and Use Taxes

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining "two or more trades or businesses under common control" the term "organization" means sole proprietorship, a partnership (as defined in § 701(a)(2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

2.060 Contract Management

2.061 Contractor Personnel Qualifications

All persons assigned by Contractor to the performance of Services under the Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of the Contract, independent contractors engaged by Contractor solely in a staff augmentation role must be treated by the State as if they were employees of Contractor for the Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

2.062 Contractor Key Personnel

- (a) The Contractor must provide the CCI with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State reserves the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor must notify the State of the proposed assignment, must introduce the individual to the appropriate State representatives, and must provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State must provide a written explanation including reasonable detail outlining the reasons for the rejection.

(d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements and appropriate transition planning must be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

2.063 Re-assignment of Personnel at the State's Request

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location

All staff assigned by Contractor to work on the Contract must perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel must, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.065 Contractor Identification

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

2.066 Cooperation with Third Parties

Contractor must cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor must provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under the Contract with the requests for access.

2.067 Contractor Return of State Equipment/Resources

The Contractor must return to the State any State-furnished equipment, facilities, and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.068 Contract Management Responsibilities

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

2.070 Subcontracting by Contractor

2.071 Contractor Full Responsibility

Contractor has full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under the Contract, including payment of any and all charges for Services and Deliverables.

2.072 State Consent to Delegation

Contractor must not delegate any duties under the Contract to a Subcontractor unless the DTMB-Purchasing Operations has given written consent to such delegation. The State reserves the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

2.073 Subcontractor Bound to Contract

In any subcontracts entered into by Contractor for the performance of the Services, Contractor must require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by the Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor is the responsibility of Contractor, and Contractor must remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor must make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under the Contract will not relieve Contractor of any obligations or performance required under the Contract.

2.074 Flow Down

Except where specifically approved in writing by the State on a case-by-case basis, Contractor must flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any Subcontractors.

2.075 Competitive Selection

The Contractor must select Subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.080 State Responsibilities

2.081 Equipment

The State must provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.

2.082 Facilities

The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor must have reasonable access to, and, unless agreed otherwise by the parties in writing, must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the Contractor in the course of providing the Services. Contractor must not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

2.090 Security

2.091 Background Checks

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

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/dit>. Furthermore, Contractor personnel must agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. The Contractor must present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff must comply with all Physical Security procedures in place within the facilities where they are working.

2.092 Security Breach Notification

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 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements – Deleted – N/A

2.100 Confidentiality

2.101 Confidentiality

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

2.102 Protection and Destruction of Confidential Information

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 the 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 the Contract for any reason, Contractor must certify to the State that Contractor has destroyed all State Confidential Information.

2.103 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights

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

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

The State's authorized representatives must at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

2.112 Examination of Records

For seven years after the Contractor provides any work under the Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

2.113 Retention of Records

Contractor must maintain at least until the end of the Audit Period, all pertinent financial and accounting records (including time sheets and payroll records, information pertaining to the Contract, and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.114 Audit Resolution

If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor must respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report.

2.115 Errors

(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the Contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than 10 percent, then the Contractor must pay all of the reasonable costs of the audit.

2.120 Warranties

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under the Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under the Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under the Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in the Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into the Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Purchasing Operations.

2.122 Warranty of Merchantability

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

2.123 Warranty of Fitness for a Particular Purpose

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

2.124 Warranty of Title – Deleted – N/A

2.125 Equipment Warranty – Deleted – N/A

2.126 Equipment to be New – Deleted – N/A

2.127 Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, is considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items must remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

2.128 Consequences For Breach

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

2.130 Insurance

2.131 Liability Insurance

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims which may arise out of or result from the Contractor's performance of Services under the terms of the Contract, whether the Services are performed by the Contractor, or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

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

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

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

The insurers selected by Contractor must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in the Contract must be issued by companies that have been approved to do business in the State. See www.michigan.gov/deleg.

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

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

- 1. Commercial General Liability with the following minimum coverage:
 - \$2,000,000.00 General Aggregate Limit other than Products/Completed Operations
 - \$2,000,000.00 Products/Completed Operations Aggregate Limit
 - \$1,000,000.00 Personal & Advertising Injury Limit
 - \$1,000,000.00 Each Occurrence Limit

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

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

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

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

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

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

4. Employers liability insurance with the following minimum limits:

\$100,000.00 each accident
\$100,000.00 each employee by disease
\$500,000.00 aggregate disease

5. Umbrella or Excess Liability Insurance in a minimum amount of \$5,000,000.00, which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

6. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: \$1,000,000.00 each occurrence and \$3,000,000.00 annual aggregate.

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

2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under the Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor must fully comply with the insurance coverage required in this Section. Failure of Subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DTMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies **MUST NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED** without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, DTMB. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.140 Indemnification

2.141 General Indemnification

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of the Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its Subcontractors, or by anyone else for whose acts any of them may be liable.

2.142 Code Indemnification

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

2.143 Employee Indemnification

In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its Subcontractors, the indemnification obligation under the Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its Subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

2.144 Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its Subcontractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if the option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

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

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

The procedures set forth below must apply to all indemnity obligations under the Contract.

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

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

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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

If the Contractor breaches the Contract, and the State, in its sole discretion, determines that the breach is curable, then the State must provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

2.152 Termination for Cause

(a) The State may terminate the Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under the Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State.

(b) If the Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by the Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in the Contract, provided the costs are not in excess of 50 percent more than the prices for the Service/Deliverables provided under the Contract.

(c) If the State chooses to partially terminate the Contract for cause, charges payable under the Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

(d) If the State terminates the Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in the Contract for a termination for convenience.

2.153 Termination for Convenience

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

2.154 Termination for Non-Appropriation

(a) Contractor acknowledges that, if the Contract extends for several fiscal years, continuation of the Contract is subject to appropriation or availability of funds for the Contract. If funds to enable the State to effect continued payment under the Contract are not appropriated or otherwise made available, the State must terminate the Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under the Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates the Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.155 Termination for Criminal Conviction

The State may terminate the Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25 percent or greater share of Contractor is convicted of a criminal offense related to a State, public or private Contract or subcontract.

2.156 Termination for Approvals Rescinded

The State may terminate the Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State must pay the Contractor for only the work completed to that point under the Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

2.157 Rights and Obligations upon Termination

(a) If the State terminates the Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from the Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates the Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under the Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under the Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for Services and Deliverables provided under the Contract, and may further pursue completion of the Services/Deliverables under the Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 Reservation of Rights

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

2.160 Deleted – N/A

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 90 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under the Contract. The Contractor must provide the State with asset management data generated from the inception of the Contract through the date on which the Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor must deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

2.174 Contractor Software Transition

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under the Contract. This must include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses must, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of the Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates agreed upon by the State. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities

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

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

2.180 Stop Work

2.181 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

2.182 Cancellation or Expiration of Stop Work Order

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment must conform to the requirements of **Section 2.024**.

2.183 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

2.190 Dispute Resolution

2.191 In General

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

2.192 Informal Dispute Resolution

(a) All disputes between the parties must be resolved under the Contract Management procedures in the Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

2.193 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section**

2.192 is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.194 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

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

2.202 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., the State must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under Section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under Section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 Workplace Safety and Discriminatory Harassment

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

2.204 Prevailing Wage – Deleted – N/A

2.210 Governing Law

2.211 Governing Law

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

2.212 Compliance with Laws

Contractor must comply with all applicable State, federal and local laws and ordinances in providing the Services/Deliverables.

2.213 Jurisdiction

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

2.220 Limitation of Liability

2.221 Limitation of Liability

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. If any Proceeding disclosed to the State under this Section, or of which the State otherwise becomes aware, during the term of the Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a Subcontractor) to continue to perform the Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
 - (a) Contractor and its Subcontractors must be able to continue to perform the Contract and any Statements of Work according to its terms and conditions, and
 - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

(c) Contractor must make the following notifications in writing:

- (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB-Purchasing Operations.
- (2) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.232 Call Center Disclosure

Contractor and/or all Subcontractors involved in the performance of the Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information is a material breach of the Contract.

2.233 Bankruptcy

The State may, without prejudice to any other right or remedy, terminate the Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish the Works in Process by whatever appropriate method the State may deem expedient if:

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;
- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under the Contract.

Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

2.240 Performance

2.241 Time of Performance

(a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 Service Level Agreements (SLAs)

(a) SLAs will be completed with the following operational considerations:

- (i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
- (ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
- (iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
- (iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
 - 1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
 - 2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) is defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service must not affect any tiered pricing levels.

- (c) Root Cause Analysis must be performed on any business critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor must provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.
- (d) All decimals must be rounded to two decimal places, with five and greater rounding up and four and less rounding down, unless otherwise specified.

2.243 Liquidated Damages – Deleted – N/A

2.244 Excusable Failure

Neither party will be liable for any default, damage, or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military, or otherwise), power failure, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. but the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.250 Approval of Deliverables – Deleted – N/A

2.260 Ownership

2.261 Ownership of Work Product by State

The State owns all Deliverables as they are works made for hire by the Contractor for the State. The State owns all United States and international copyrights, trademarks, patents, or other proprietary rights in the Deliverables.

2.262 Vesting of Rights

With the sole exception of any preexisting licensed works identified in the SOW, the Contractor assigns, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any the Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon the State's request, the Contractor must confirm the assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State may obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

2.263 Rights in Data

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor must not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor must not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

(b) The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State must not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

The Contractor must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://www.michigan.gov/dit>.

2.272 Acceptable Use Policy

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

2.273 Systems Changes – Deleted – N/A

2.280 Extended Purchasing

2.281 MIDEAL

1984 PA 431 permits DTMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: www.michigan.gov/buymichiganfirst. Unless otherwise stated, the Contractor must ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor must supply Contract Services and equipment to these local governmental agencies at the established State of Michigan contract prices and terms to the extent applicable and where available. The Contractor must send its invoices to, and pay the local unit of government, on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under the Contract, the quantities of Services and/or equipment purchased must be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

2.282 State Employee Purchases - Deleted – N/A

2.290 Environmental Provision

2.291 Environmental Provision

Hazardous Materials:

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation, or disposal of which is regulated by the federal, State, or local laws governing the protection of the public health, natural resources, or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State, and local laws. The State must provide a safe and suitable environment for performance of Contractor's Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html

Refrigeration and Air Conditioning:

The Contractor must comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the Contract.

Environmental Performance:

Waste Reduction Program: Contractor must establish a program to promote cost-effective waste reduction in all operations and facilities covered by the Contract. The Contractor's programs must comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).

2.300 Other Provisions

2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials

Equipment, materials, or supplies, that will be furnished to the State under the Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

Attachment A, Pricing

Description	
Price for Prescription and Non-Prescription Drugs:	
1. Actual Acquisition Cost (AAC)	
a. Formula for calculation of AAC (i.e. WAC -15 percent)	Actual Invoice Price less all estimated Rebates + all Discounts (including Prompt Payment) + All Estimated GPO Shareback Discounts
b. Administrative Fee - Per Prisoner Per Month (PPPM)	\$7.10
<ul style="list-style-type: none"> • Administrative Fee must be all inclusive, including, but not limited to: fuel surcharge, dispensing fees, etc. 	ALL costs are included in the fee (pharmacy labor, shipping, delivery, equipment and supplies)
c. All returns/credits will be at the AAC at the time the medication was dispensed.	
d. Per prescription fee (all inclusive) for SAI and re-entry centers	\$2.85
2. Rebates/Discounts/Revenue	
a. Contractor agrees to provide 100 percent of all rebates, discounts, and/or revenue to the MDOC.	
b. Prompt payment Discount Schedule:	0%
<ul style="list-style-type: none"> • Discount if paid within 5 business days 	0%
<ul style="list-style-type: none"> • Discount if paid within 10 business days 	0%
<ul style="list-style-type: none"> • Discount if paid within 15 business days 	0%
<ul style="list-style-type: none"> • Discount if paid within 30 business days 	0%
3. Other Costs	
a. Detail any and all other costs that are associated with the Contract	N/A
b. All scanners, training, interfaces, and other supplies will be at no cost to the MDOC	
c. All data belongs to the MDOC	
d. All transition costs are the responsibility of the Contractor.	

Attachment B

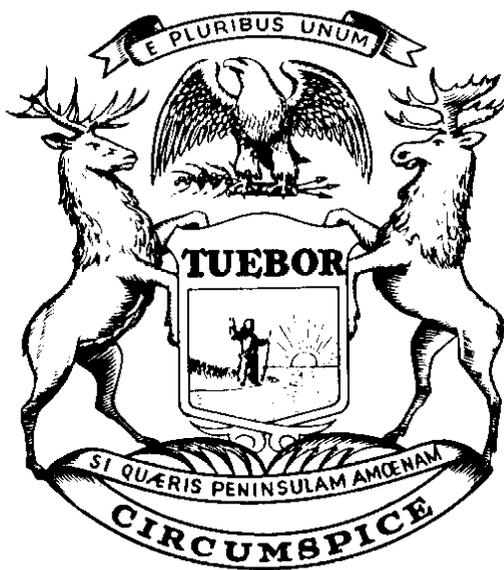
**MDOC Pharmaceutical Services
MICHIGAN DEPARTMENT OF CORRECTIONS**

Bureau of Health Care Services

CLINICAL FORMULARY

Approved: 9/20/06

Latest Revision: 2/5/08



PREFACE

This is a managed care formulary or book containing the names of drugs. Providers concerned with the prescribing of medicines should refer to this book in choosing quality cost-effective treatment.

A managed care formulary is different from a hospital formulary in that it does not include dosage forms and actual drug cost. (Actual costs change frequently and therefore do not remain accurate over time.) The drugs and guidelines on this formulary have been approved for use by the Medical Advisory Committee (MAC). Their purpose is to evaluate and select drugs and their appropriate use.

The Medical Advisory Committee (MAC), consisting of physicians, has the primary responsibility for setting policies regarding the evaluation, selection and therapeutic use of drugs. Although the MAC is the decision-making body regarding the Formulary, contributions from all participating physicians are welcomed.

CRITERIA OF CHOICE

Examples of the criteria used to determine the formulary status of products include the following:

- Effectiveness of the product
- FDA approved indications
- Side effect profile
- Patient compliance factors
- Physician follow-up requirements
- Effect on ER visits and hospitalizations
- Lab tests
- Cost
- Practice guidelines

This Formulary is intended to be a helpful guide in the decision making process. The final choice of the drug rests solely with the prescriber.

PRODUCT NAME

This is the most common brand name of the drug.

GENERIC NAME

This is the generic or chemical name of the drug.

GENERIC SUBSTITUTION

Generic substitution is the process by which a pharmacist dispenses a generic equivalent of a product rather than the branded product. Generic substitution will be done whenever a generic equivalent is available. When medical necessity dictates that a branded product be used, approval using the off-formulary process will be necessary.

FORMULARY COMPLIANCE

Through the use of a retrospective utilization review system, we are able to monitor the prescribing of formulary drugs.

FORMULARY ORGANIZATION

The Formulary is organized by a combination of therapeutic classes and diagnoses. The drug products are listed by generic name (small print in left column) and common brand-name (large print in right column).

NON-FORMULARY DRUGS

When a prisoner requires a drug (either non-prescription or prescription) for medical reasons that are not on the MDOC Formulary, approval to use the drug must be obtained from the Regional Medical Officer. It is the responsibility of the medical service provider attending to the prisoner to obtain the Regional Medical Officer's approval for off-formulary drugs whether the drug was prescribed by themselves or recommended by a consultant and subsequently deemed medically necessary by themselves. Non-formulary psychotropic medication shall be approved by the DCH clinical approving authority per DCH guidelines. The Regional Medical Officer's approval for all Off-Formulary drugs is to be obtained according to the attached Guidelines [Approval of Non-Formulary Medications](#).

FORMULARY MAINTENANCE POLICY

All Formulary decisions will be made by the Medical Advisory Committee.

Additions/Deletions:

The addition/deletion of drugs to the Formulary will be based on comparative efficacy and drug specific parameters. Evaluations will be based on information from respected medical references, primary literature and standard of practice guidelines.

Cost will be considered in Formulary decisions when little or no difference exists in comparative efficacy and drug specific parameters. If you have any comments or concerns regarding the Formulary or a request to have a drug reviewed by the Medical Advisory Committee, please submit a Formulary Change Request.

DOCUMENTATION GUIDELINES		
FORM NAME	FORM NO.	REV. DATE
Off Formulary Medication Request	CHJ-183	10/06

INFORMATION:	When off formulary psychotropic medication is being ordered, the guidelines contained in the Bureau of Forensic Mental Health Services= September 11, 1995 memorandum ΔPrescription of Controlled and Non-controlled Medications in General Population and Residential Treatment Program Settings@ must be followed instead of these guidelines.
NOTE	Serapis must be used if available to submit off formulary requests
<u>WHO</u>	<u>DOES WHAT</u>
Medical Services Provider (MSP)	When MSP determines that an off formulary medication is medically necessary for a specific prisoner, a RMO approval template in Serapis is completely and legibly filled out and submitted to the Regional Medical Officer or acting Regional Medical Officer for approval via Serapis email. If this is an urgent request, the MSP may order up to a ten day supply of the medication, followed by the phrase, "Pending Medical Officer's Approval." Written in the SIG portion. If it is a non-urgent request, then order for off formulary medication should not be written until the approval is received.
Regional Medical Officer (RMO)	Receives request via Serapis email and reviews for medical necessity. Approves, denies or pends request and returns to MSP via Serapis email.
MSP	Upon receipt of approval email, writes order for off formulary medication and submits to pharmacy with copy of approval. Or Upon receipt of pended request email, supplies further documentation requested by Regional Medical Officer. Or Upon receipt of denial email, decides whether he/she wants to request an appeal of denial and, if so, submits further documentation to Regional Medical Officer.
Regional Medical Officer	Reviews additional information submitted and either approves or denies request and returns to MSP via Serapis email.
MSP	If request approved, writes order for off formulary medication and forwards to pharmacy with copy of approval. If denied, decides whether he/she wants to request an appeal of denial and, if so, submits appeal to the Chief Medical Officer via Serapis email.

1. ANTIMICROBIALS AND INFECTIOUS DISEASE

Antibiotics are considered to be either first line agents or second line agents. First line agents signified by (FL) are to be tried first unless one of the following conditions exist:

1. Prior history of failure of the first line agent in a reoccurring infection.
2. Allergy or history of prior adverse side effects of the first line agent.

3. Patient is HIV positive or otherwise significantly immune compromised making the use of a first line agent dangerous in that patient
4. Culture report showing resistance to first line agents.
5. Sanford's "Guide to Antimicrobial therapy" lists second line drug as treatment of choice.

Second line agents are signified by (SL) and are generally to be used after a first line agent. When a second line agent is used as the initial treatment for any infection the rationale for the medical necessity of its use must be documented in the medical record.

A. BETA LACTAM ANTIBIOTICS

penicillin (FL)	PEN VK (\$)
amoxicillin (FL)	AMOXIL (\$)
ampicillin (FL)	OMNIPEN (\$)
cephalexin (FL)	KEFLEX (\$)
cefazolin sodium (INPATIENT ONLY)	KEFZOL (1st generation)
cefoxitin sodium (INPATIENT ONLY)	MEFOXIN (2nd generation)
ceftriaxone sodium(FL)	ROCEPHIN (3rd generation)
ceftazidime (INPATIENT ONLY)	FORTAZ (3rd generation)
cefuroxime (SL)	CEFTIN (2nd generation)(\$\$\$\$\$)
dicloxacillin (FL)	DYNAPEN (\$)
amoxicillin/clavulanate (FL)	AUGMENTIN (\$\$\$\$\$)
nafcillin sodium (INPATIENT ONLY)	UNIPEN
ticarcillin (INPATIENT ONLY)	TICAR

B. ERYTHROMYCINS

erythromycin (FL)	ERY-TAB (\$)
clindamycin (see miscellaneous anti-infectives)(FL)	CLEOCIN (\$\$\$)

C. TETRACYCLINES

tetracycline (FL)	SUMYCIN (\$)
doxycycline (FL)	VIBRAMYCIN (\$)

D. FLUOROQUINOLONES

ciprofloxacin (SL)	CIPRO (\$\$\$\$\$)
levofloxacin (SL)	LEVAQUIN (\$\$\$\$\$)

E. SULFONAMIDES AND SULFONES

sulfamethoxazole/trimethoprim (FL)	SEPTRA, DS (\$)
sulfasalazine	AZULFIDINE

F. ANTI-TUBERCULOSIS / ANTI-MYCOBACTERIAL AGENTS

isoniazid	ISONIAZID (\$)
pyrazinamide	PYRAZINAMIDE (\$\$\$\$\$)
rifampin	RIFADIN (\$\$\$\$\$)
ethambutol	MYAMBUTOL (\$\$\$\$\$)
streptomycin	
rifabutin	MYCOBUTIN (\$\$\$\$\$)

G. ANTI-VIRALS

amantadine	SYMMETREL (\$)
acyclovir (not ointment)	ZOVIRAX (\$\$)
ribavirin, USP Capsules	REBETOL
peg interferon alfa 2a	PEGASYS

ANTIRETROVIRAL AGENTS

zidovudine (AZT)	RETROVIR
didanosine (ddi)	VIDEX-EC
zalcitabine (ddc)	HIVID
stavudine (d4T)	ZERIT
lamivudine (3TC)	EPIVIR
abacavir	ZIAGEN
tenofovir	VIREAD
emtricitabine	EMTRIVA

FUSION INHIBITOR

enfuvirtide	FUSEON
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NNRTI - NON-NUCLEOSIDE REVERSE TRANSCRIPTASE INHIBITORS

nevirapine (NVP)	VIRAMUNE
delavirdine (DEL)	RESCRIPTOR
efavirenz	SUSTIVA

PI - PROTEASE INHIBITORS

saquinavir mesylate	INVIRASE
indinavir (IDV)	CRIVAN
ritonavir (RIT)	NORVIR
nelfinavir (NEL)	VIRACEPT
atazanavir sulfate	REYATAZ
fosamprenavir	LEXIVA
tipranavir	APTIVUS
darunavir	PREZISTA

FIXED DOSE COMBINATION MEDICATIONS

zidovudine, lamivudine and abacavir	TRIZIVIR
lopinavir and ritonavir	KALETRA
lamivudine and abacavir	EPZICOM
tenofovir and emtricitabine	TRUVADA
tenofovir and emtricitabine and efavirenz	ATRIPLA

CO-RECEPTOR ANTAGONISTS

Maraviroc	SELZENTRY
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HIV INTEGRASE INHIBITOR

Raltegravir	ISENTRESS
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H. ANTI-FUNGALS

amphotericin B	
nystatin	MYCOSTATIN (\$)
ketoconazole	NIZORAL (\$\$\$\$)
clotrimazole troche	MYCELEX (\$)
fluconazole	DIFLUCAN (\$\$\$\$\$\$\$)

I. MISCELLANEOUS ANTI-INFECTIVES

metronidazole	FLAGYL (\$)
vancomycin	VANCOCIN (\$\$\$\$\$\$\$)

2. ANTINEOPLASTICS AND IMMUNOSUPPRESSANTS

hydroxyurea
methotrexate
tamoxifen

3. NEUROLOGICAL DRUGS

A. PARKINSON'S

trihexyphenidyl
benztropine
amantadine
levodopa/carbidopa
bromocriptine

ARTANE (\$)
COGENTIN (\$)
SYMMETREL (\$)
SINEMET (\$\$)
PARLODEL (\$\$\$\$\$\$\$\$\$)

B. MIGRAINE THERAPY

ergotamine/caffeine (not PB)
aspirin 250mg/acetaminophen 250mg/ OTC
caffeine 65mg
zolmitriptan

CAFERGOT (\$)
EXCEDRIN MIGRAINE
(\$)
ZOMIG (\$\$\$\$)

C. SKELETAL MUSCLE RELAXANTS

baclofen
cyclobenzaprine
pancuronium bromide (INPATIENT ONLY)
succinylcholine chloride (INPATIENT ONLY)
tubocurarine chloride (INPATIENT ONLY)
dantrolene (INPATIENT ONLY)
quinine sulfate

LIORESAL (RESTRICTED) (\$\$)
FLEXERIL (RESTRICTED) (\$)

DANTRIUM
QUINAMM(\$)

D. SEIZURES

phenobarbital
phenytoin
carbamazepine
primidone
ethosuximide
topiramate
lamotrigine
valproic acid

PHENOBARBITAL (\$)
DILANTIN (\$)
TEGRETOL (\$\$\$)
MYSOLINE (\$\$\$\$)
ZARONTIN (\$\$\$\$\$)
TOPAMAX (\$\$\$\$\$\$\$)
LAMICTAL (\$\$\$\$\$\$\$)
DEPAKENE (\$\$\$\$\$\$\$)

4. BLOOD MODIFIERS

enoxaparin sodium
warfarin
pentoxifylline
heparin (INPATIENT ONLY)
aspirin
dipyridamole
anti-hemophiliac factor
G-CSF
urokinase (INPATIENT ONLY)
protamine sulfate (INPATIENT ONLY)
darbepoetin alpha
clopidogrel bisulfate

LOVENOX
COUMADIN (\$\$\$)
TRENTAL

PERSANTINE (\$\$)

NEUPOGEN (\$\$\$\$\$\$\$\$\$)

ARANESP
PLAVIX

5. CARDIOVASCULAR AGENTS

A. ANTIARRHYTHMICS AND CARDIAC GLYCOSIDES

digoxin (not caps)

LANOXIN

B. ANTIHYPERTENSIVES**1. DIURETICS**

hydrochlorothiazide (hctz)	HYDRODIURIL (\$)
furosemide	LASIX (\$)
spironolactone	ALDACTONE (\$\$)
hydrochlorothiazide/triamterene	MAXZIDE (\$)

2. BETA BLOCKERS

propranolol hydrochloride	INDERAL (\$)
atenolol	TENORMIN (\$)

3. ALPHA AND BETA BLOCKERS

metoprolol	LOPRESSOR (\$)
labetalol	NORMODYNE (\$\$\$)
	TRANDATE (\$\$\$)
Carvedilol	COREG

4. CALCIUM CHANNEL BLOCKERS

verapamil	CALAN (\$)
diltiazem sustained release	(\$\$\$\$)
amlodipine	NORVASC

5. ACE INHIBITORS

enalapril	VASOTEC (\$\$)
captopril	CAPOTEN (\$)

6. ALPHA ADRENERGIC BLOCKERS AND CENTRALLY ACTING

clonidine (ORAL ONLY)	CATAPRES (RESTRICTED)(\$)
prazosin (not XL)	MINIPRESS (\$)
terazosin	HYTRIN (\$\$\$)

7. VASODILATORS

hydralazine (100mg tabs)	APRESOLINE(\$)
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C. NITRATES

nitroglycerin	NITROSTAT S.L. (\$\$)
NITRO-BID (\$)	
isosorbide mononitrate	IMDUR (\$\$\$\$\$\$)

D. ANTIHYPERLIPIDEMICS

cholestyramine	QUESTRAN (\$\$\$\$\$\$)
QUESTRAN-LIGHT(\$\$\$\$\$\$)	
gemfibrozil	LOPID (\$)

HMG CO-A reductase inhibitors

simvastatin	ZOCOR
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6. PAIN AND INFLAMMATORY DISEASES**A. NONSTEROIDAL ANTI-INFLAMMATORY DRUGS**

ibuprofen	OTC	ADVIL (\$)
	OTC	NUPRIN (\$)
ibuprofen		MOTRIN (\$)
salsalate		DISALCID (\$\$)
naproxen		NAPROSYN (\$)
Sulindac		CLINORIL
etodolac (not xl)		LODINE (NOT XL)
ketorolac tromethamine im tab		TORADOL – IM (\$\$\$\$)
		TORADOL oral (\$\$\$\$)

**B. NARCOTIC ANALGESICS
MODERATE PAIN**

acetaminophen/codeine
hydrocodone bitartrate and acetaminophen

TYLENOL #3 (\$)
VICODIN (\$)
aspirin
APAP TYLENOL (\$)

SEVERE PAIN

morphine

meperidine (INPATIENT ONLY)

MSIR C-II
MS-CONTIN (\$\$\$\$\$\$\$)
DEMEROL C-II (\$\$\$\$\$\$\$)

NARCOTIC ANTAGONIST:

naloxone hydrochloride

NARCAN

C. OTHER ANALGESICS

tramadol

ULTRAM (RESTRICTED)

D. ANTI GOUT MEDICATIONS

probenecid
allopurinol
colchicine

BENEMID (\$\$\$\$\$)
ZYLOPRIM (\$)
COLCHICINE (\$\$\$)

7. PSYCHIATRIC MEDICATIONS

General Guidelines:

Definitions:

Preferred psychotropic drugs have been recommended by the Psychiatric Advisory Committee on the basis of clinical efficacy, safety, and cost-effectiveness.

Non-preferred psychotropic drugs are usually more expensive than preferred drugs. They are generally prescribed only where a preferred drug is not appropriate. Typically, they are therapeutically equivalent to preferred drugs.

Unclassified drugs are neither preferred nor non-preferred. They are usually less expensive medications having side-effects that make them less desirable as first-line drugs. There are no restrictions on their use.

Controlled drugs are so classified by the FDA and require CAA approval.

Non-formulary drugs are reviewed on a case-by-case basis.

Adequate trial means one of the following: (1) a medication has been administered at generally accepted therapeutic doses for a sufficient period of time to conclude that the medication was ineffective. In most cases, this means several weeks, though for some medications and contexts, the time required may be shorter. (2) a medication causes adverse effects such that sustained treatment at an adequate dose is not possible.

Use of non-preferred drugs must meet the following criteria:

A. One of the following is true:

1. The patient failed an adequate trial of a preferred medication. If the clinician seeking to prescribe a non-preferred medication did not personally oversee an adequate trial, then there should be convincing evidence from the history that such a trial took place.

2. The preferred drug(s) are contraindicated or pose other, unnecessary medical or psychiatric risks (for example, an elevated prolactin level and gynecomastia or a pre-existing movement disorder might justify administering olanzapine or quetiapine without a trial of risperidone).
3. There are other compelling reasons for initiating treatment with a non-preferred drug. This might include clinical benefit already established on a non-preferred drug in a patient/prisoner who had been difficult to manage

B. The prescriber has completed a non-preferred medication form and submitted it to the CAA.

Preferred and Non-preferred Drugs in Major Categories

We have used Trade and generic names with care. Paroxetine (Paxil) and clozapine (Clozaril) are available as generics, but even as such the prices are high, so these have been placed among the non-preferred drugs.

A. ANTIDEPRESSANT AND ANTI-OBSessional MEDICATIONS

Preferred:	fluoxetine; bupropion; bupropion-SR; trazodone; citalopram	
Non-preferred:	Zoloft; Effexor; Remeron-sol	
Unclassified:	tricyclic antidepressants	
	Fluoxetine (first choice)	PROZAC
	amitriptyline	ELAVIL
	imipramine	TOFRANIL
	doxepin	SINEQUAN
	desipramine	NORPRAMIN
	trazodone	DESYREL
	clomipramine	ANAFRANIL
	nortriptyline	PAMELOR
	bupropion	WELLBUTRIN
	sertraline	ZOLOFT
	venlafaxine hydrochloride	EFFEXOR
	citalopram Hbr	CELEXA

B. ANTIPSYCHOTIC MEDICATIONS

Preferred:	Risperdal	
Non-preferred:	Zyprexa, Clozapine, Abilify	
Unclassified:	Geodon; all traditional neuroleptics that are on-formulary	
Non-formulary:	Consta (see below)	
	aripiprazole	ABILIFY
	haloperidol	HALDOL
	trifluoperazine	STELAZINE
	thioridazine	MELLARIL
	fluphenazine	PROLIXIN
	thiothixene	NAVANE
	loxapine	LOXITANE
	perphenazine	TRILAFON
	chlorpromazine (not spansule)	THORAZINE
	clozapine (third line agent)	CLOZARIL
	risperidone (first choice)	RISPERDAL
	olanzapine	ZYPREXA
	quetiapine fumarate	SEROQUEL
	ziprazidone (first choice)	GEODON
	paliperidone	INVEGA

C. MOOD STABILIZER MEDICATIONS

Preferred: Valproic acid (generic); lithium carbonate
Non-preferred: Trileptal; Topamax
Unclassified: carbamazepine; Lamictal¹

lithium carbonate
carbamazepine
valproic acid
TEGRETOL
DEPAKENE

D. ANTI-ANXIETY/HYPNOTIC MEDICATIONS

Preferred: buspirone
Non-preferred: none
Controlled drugs: oral benzodiazepines require CAA approval
Unclassified: intramuscular lorazepam; clomipramine (for OCD) and other tricyclics

lorazepam*
clonazepam*
buspirone
ATIVAN
KLONOPIN
BUSPAR

E. BETA ADRENERGIC RECEPTOR ANTAGONISTS

Formulary drugs in this group are unclassified

atenolol
metoprolol
propranolol
TENORMIN
LOPRESSOR
INDERAL

F. ANTI-PARKINSONIAN MEDICATIONS

Formulary drugs in this group are unclassified

trihexyphenidyl
benztropine
amantadine
ARTANE
COGENTIN
SYMMETREL

8. EYE, EAR AND NOSE

A. EYE

1. ANTI-INFECTIVES (OPHTHALMIC)

gentamicin
trifluridine
tobramycin and dexamethasone
ofloxacin ophthalmic solution 0.3%
erythromycin oint 0.5%
tobramycin 0.3% sol
tobramycin 0.3% oint
GARAMYCIN (\$)
GENOPTIC (\$)
VIROPTIC (\$\$\$)
TOBRADEX (\$)
OCUFLOX (\$\$\$\$)
ILOTYCIN
TOBEX
TOBEX

¹ Lamictal is an expensive drug. Because its therapeutic profile is unique, targeting the depressive phase of bipolar disorder, we have not included it among the non-preferred drugs. Note that higher dosage forms (200mg) are not much more expensive than lower dosage forms (25mg). Although the PDR recommends divided dosing above 25mg, Lamictal's pharmacokinetics vary dramatically with co-administration of other anticonvulsants. This should be considered when deciding whether to divide doses in a particular case.

2. ANTI-INFLAMMATORIES

dexamethasone	MAXIDEX (\$\$)
	DECADRON (\$\$)
neomycin/dexamethasone/polymyxin	MAXITROL (\$)
prednisolone acetate	PRED MILD/FORTE (\$)
neomycin/bacitracin/polymyxin/hydrocortisone	CORTISPORIN
fluorometholone	F.M.L. (\$\$\$)
	VASOCIDIN (\$\$\$)
ketorolac	ACULAR (\$\$\$\$)
azelastine 0.5 mg/ml	OPTIVAR
loteprednol 0.2%	ALREX

3. ANTIGLAUCOMA AGENTS

ORAL
acetazolamide DIAMOX (\$\$\$)

TOPICAL

brimonidine tartarate	ALPHAGAN
travoprost 0.004%	TRAVATAN
levobunolol	BETAGAN (\$\$)
timolol oph.	TIMOPTIC (\$)
betaxolol	BETOPTIC (\$\$\$\$\$)
latanoprost	XALATAN (\$\$\$\$\$)
dorzolamide/timolol	COSOPT

4. MISCELLANEOUS OPHTHALMIC DRUGS

naphazoline	VASOCON (\$\$)
	ALBALON
tropicamide	MYDRIACYL
artificial tears	(\$)
fluorescein strips	(\$)
phenylephrine 2.5 & 10.0% sol	NEO-SYNEPHRINE
isopto-homatropine 5.0%	HOMATROPINE
cyclopentolate	CYCLOGYL
	FLUOROX
tetracaine HCl 0.5%	
loxamide 0.1%	ALOMIDINE

B. EAR

1. ANTI-INFECTIVES AND OTHER DRUGS

polymyxin/neomycin/hydrocortisone	CORTISPORIN OTIC (\$\$\$\$)
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C. NOSE

1. NASAL

Saline Nasal Spray	(\$)
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9. GASTROINTESTINAL DRUGS

A. DIARRHEA/ANTI-DIARRHEALS

loperamide	OTC	IMODIUM A-D (\$)
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B. DIGESTION

Lactase	(\$\$)
pancrelipase	VIOKASE (\$\$\$\$\$)

C.	ANTIEMETICS metoclopramide prochlorperazine (not spansule) meclizine	REGLAN (\$) COMPAZINE (\$\$\$) ANTIVERT (\$) PHENERGAN
D.	ULCERS/GERD Antacids (magnesium-aluminum hydroxyd) sucralfate ranitidine alginate acid/simethicone aluminum hydroxide calcium carbonate	(\$) CARAFATE (\$\$\$\$) ZANTAC (\$\$) GAVISCON (\$\$) AMPHOGEL (\$\$\$) Tums (restricted to dialysis patients)
E.	SPASM dicyclomine glycopyrrolate (INPATIENT ONLY)	BENTYL (\$\$\$) ROBINUL
F.	CATHARTICS/LAXATIVES/ANTI-HEMORRHOIDS bisacodyl tab bisacodyl supp citrate of magnesia soln docusate sodium cap fleet enema fleet prep kit #1 golytely lavage psyllium mucilloid dibucaine ointment anusol HC supp/cream lactulose	DULCOLAX (\$) (\$) (\$) COLASE (\$) (\$\$\$) METAMUCIL (\$\$) (\$)
10.	<u>HORMONES</u>	
A.	ADRENAL CORTICOSTEROIDS prednisone hydrocortisone dexamethasone methylprednisolone triamcinolone acetate	ORASONE (\$) CORTEF (\$) DECADRON (\$) MEDROL (\$\$\$\$) KENALOG-10 (\$\$) KENALOG-40 (\$\$)
B.	THYROID	
1.	THYROID AGENTS levothyroxine tab	(\$)
2.	ANTITHYROID AGENTS methimazole tab propylthiouracil tab	TAPAZOLE (\$\$\$\$\$\$\$) PTU (\$)
C.	ANDROGEN HORMONE INHIBITOR finasteride	PROSCAR (\$\$\$\$\$\$\$)
D.	GONADOTROPIN RELEASING HORMONE Levoprolide acetate	LUPRON DEPOT

11. **DIABETES MELLITUS**

A. INSULINS

NPH-human inj (\$\$\$)
regular-human (\$\$)
70/30 humulin (\$\$\$)

B. ORAL AGENTS

1. SULFONYLUREAS

glyburide tab DIABETA/MICRONASE(\$)
glipizide GLUCOTROL (SHORT
(ACTING ONLY) (\$)

2. PHENFORMINS

metformin GLUCOPHAGE (SHORT
ACTING ONLY)

3. MISCELLANEOUS ANTIDIABETIC AGENTS

glucagon inj

12. **SKIN**

A. ANTI-INFECTIVES (TOPICAL)

metronidazole gel METROGEL silver (\$\$\$\$) silver
sulfadiazine topical cream SILVADENE (\$)
bacitracin oint (\$)
clindamycin gel (\$\$)
neomycin/polymyxin B-irrig (\$)
triple antibiotic oint (\$)

B. ANTIFUNGALS (TOPICAL)

nystatin cr/oint MYCOSTATIN (\$)
NILSTAT (\$)
nystatin/triamcinolone MYCOLOG II (\$\$)
ketoconazole NIZORAL (\$\$\$\$)
clotrimazole soln (\$\$)
clotrimazole loz (\$\$)
clotrimazole tab (\$\$)

C. SCABIES AND PEDICULUS

lindane lotion KWELL (\$\$)
permethrin 5% cream (for use with pregnant
or lactating women only) ELIMITE (\$\$\$\$\$)

D. KERATOPLASTIC AGENTS

coal tar crm (\$)
coal tar gel (\$)

**E. ANTI-INFLAMMATORIES IN INCREASING STRENGTH (TOPICAL)
GROUP VI**

fluocinolone acetonide soln 0.01% SYNALAR (\$)
betamethasone valerate lot 0.1% VALISONE (\$)

GROUP V

triamcinolone acetonide lot 0.1% KENALOG (\$)
betamethasone valerate crm 0.1% VALISONE (\$)
fluocinolone acetonide crm 0.025% SYNALAR (\$)
betamethasone dipropionate lot 0.05% DIPROSONE (\$)

GROUP IV

triamcinolone acetonide oint 0.1% KENALOG (\$)
fluocinolone acetonide oint 0.025% SYNALAR (\$)

	GROUP III		
	triamcinolone acetonide cream 0.5%		KENALOG (\$)
	betamethasone valerate oint 0.1%		VALISONE (\$)
	betamethasone dipropionate crm 0.05%		DIPROSONE (\$)
	GROUP II		
	betamethasone dipropionate oint 0.05%		DIPROSONE (\$)
	fluocinonide crm/gel 0.05%		LIDEX (\$)
	fluocinonide oint 0.05%		LIDEX (\$)
F.	KERATOLYTICS		
	salicylic acid		
	OCCLUSAL-HP (\$)		DUO-FILM (\$)
	KERALYT (\$)		
	podophyllum soln		(\$)
	urea lotion		(\$)
	trichloroacetic acid solution		(\$)
	podofilox		CONDYLOX (solution & gel)
			(\$\$\$\$\$\$\$)
G.	ANTIPRURITICS & LOCAL ANESTHETIC		
	benzocaine spr (INPATIENT ONLY)		
	calamine lot		(\$)
	xylocaine viscous		LIDOCAINE (\$)
	xylocaine (injectable): with and without		LIDOCAINE (\$)
	epinephrine		(\$)
	chloroethane spr soln		ETHYL CHLORIDE SPRAY (\$)
	dibucaine oint		DIBUCAINE (\$\$)
H.	ASTRINGENTS		
	alum sulfate/calcium acetate tab		(\$)
I.	MISCELLANEOUS SKIN & MUCOUS MEMBRANE AGENTS		
	dextran polymer beads		
	fibrinolysin/desoxyribonuclease oint		
	fluorouracil crm		
	hydroactive dressing		
	mineral oil (restricted to dialysis patients only)		
J.	ACNE		
	tretinoin cream		RETIN A (\$\$\$\$\$\$)
13.	<u>WOMENS HEALTH</u>		
A.	ORAL CONTRACEPTIVES		
	MONOPHASIC		
	norethindrone/mestranol		ORTHO-NOVUM 1/50
	rethindrone/ethinyl estradiol		ORTHO-NOVUM 1/35
			ORTHO-NOVUM 7-7-7
	norgestrel/ethinyl estradiol		LO/OVRAL (\$\$\$\$\$)
			OVRAL
B.	ESTROGENS		
	estradiol, micronized		ESTRACE (\$)
	estrogens, conjugated		PREMARIN (AND CRM)(\$\$\$\$)
C.	PROGESTINS		
	medroxyprogesterone acetate		PROVERA (\$)
	megestrol acetate		MEGACE
	medroxyprogesterone acetate depo inj.		DEPO-PROVERA

D.	VAGINAL AGENTS metronidazole vaginal gel clindamycin vaginal cream	METRO GEL-VAGINAL CLEOCIN 2% VAG. CR.
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14. RESPIRATORY DRUGS

A.	THEOPHYLLINES aminophylline inj (INPATIENT ONLY) theophylline-anhydrous tab theophylline-anhydrous soln theophylline - Long Acting	(\$) (\$) (\$\$\$\$)
B.	BETA AGONISTS (INJECTION) terbutaline sulfate inj.	BRETHINE
C.	INHALERS	
1.	STEROID/ANTI-INFLAMMATORY INHALERS beclomethasone	QUAR
2.	MISCELLANEOUS INHALERS cromolyn sodium	INTAL (\$\$\$\$\$\$\$)
3.	BRONCHODILATOR INHALERS albuterol ipratropium	PROVENTIL (\$) ATROVENT (\$\$\$\$\$)
D.	BRONCHODILATOR SOLUTIONS ipratropium inhalant soln albuterol	ATROVENT (\$\$\$\$\$) (\$\$\$\$)
E.	ANTI-HISTAMINES	
1.	PHENOTHIAZINES promethazine	PHENERGAN (\$)
2.	ETHANOLAMINES diphenhydramine injectable diphenhydramine 50mg	(Emergency Box only) (Emergency Box and prisoners on dialysis only)
F.	MISCELLANEOUS epinephrine auto-injector	EPIPEN (\$\$\$\$\$)

15. SUPPLEMENTS

A.	MINERALS
1.	TABLETS potassium chloride tab ferrous sulfate tabs
2.	SOLUTIONS/INJECTIONS calcium gluconate inj (INPATIENT ONLY) NaCl soln NaCl bacteriostatic inj potassium chloride soln bacteriostatic water potassium chloride inj (INPATIENT ONLY) iron dextran inj

B. VITAMINS

- 1) Vitamin B Group
cyanocobalamin inj
folic acid tab
nicotinic acid tab
pyridoxine tab
thiamine tab
thiamine inj

- 2) Other Vitamins
calcitriol

ROCALTROL (restricted to dialysis patients only)

- 3) Multivitamin Preparations
infusion inj
nephrocaps cap
prenatal tab

16. MISCELLANEOUS DRUGS

- A. ALKALINIZING AGENTS**
sodium bicarbonate inj

- B. ANESTHETICS (ALL INPATIENT ONLY)**
Forane Inhalant 125ml
Pentothal 500mg IV
Sublimaze 5ml IV
Sufenta 50meg/ml 2ml
Inapsine 2.5mg/ml 2ml
Suprane INH. Solution (Desflurane) 240ml
Midazolam 2mg/ml
Vecuronium Br Norcuron 1mg/ml 10ml
Diprivan 10mg/ml 20ml
Diprivan 50cc Jug

- C. ANTI-INFECTIVES**
silver nitrate

- D. CALORIC AGENTS**
dextrose soln 50%

- E. IRRIGATING SOLUTIONS**
NaCl irr
sterile water soln

- F. POTASSIUM-REMOVING RESINS**
sodium polystyrene sulfonate susp

KAYEXALATE

- G. PHOSPHOROUS-REMOVING RESINS**
calcium acetate
sevelamer hydrochloride

PHOSLO
RENAGEL

- H. ROENTGENOGRAPHY**
iopanoic acid tab
sodium diatrizoate inj

- I. TOXOIDS/VACCINES**
 - diphtheria/tetanus inj
 - tetanus inj
 - hepatitis B virus inact inj
 - influenza trivalent adult inj
 - pneumococcal polyvalent inj
 - MMR vaccine
 - measles vaccine
 - rubella vaccine
 - Hepatitis A Vaccine, Inactivated HAVRIX
 - Hepatitis A Inactivated
& Hepatitis B (Recombinant) Vaccine TWINRIX

- J. UNCLASSIFIED THERAPEUTIC AGENTS**
 - rhogam
 - chlorhexadine gluconate 0.12% oral rinse PERIDEX

- K. URINARY TRACT AGENTS**
 - ANTISPASMODICS**
 - oxybutynin DITROPAN TABLETS (\$)

 - ANALGESIC**
 - phenazopyridine HCl PYRIDIUM (\$)

 - BENIGN PROSTATIC HYPERPLASIA (BPH) THERAPY**
 - tamsulosin HCL FLOMAX (\$\$\$\$\$)

17. RESTRICTED DRUG LIST

Michigan Department of Corrections

Restricted medication is defined as medication which is administered by a nurse. When taken orally all restricted medication must be observed being ingested.

All additions to or deletions from the restricted drug list shall be conveyed to the Deputy Director of Correctional Facilities Administration, for dissemination along the custody chain of command, by the Chief Medical Officer.

When a medication is restricted at a particular facility, the Warden of the facility will be notified by the Regional Medical Officer. This is to occur when the temporary restriction is imposed and again when it is lifted.

- A. Psychotropics
 - All medication listed in Section 7 – Psychiatric (when ordered by a psychiatrist)
 - Non psychotropics when used for psychiatric reasons:
 - Benztrapine Mesylate (COGENTIN)
 - Trihexyphenidyl HCl (ARTANE)
 - Diphenhydramine (BENEDRYL)

- B. All scheduled medications
 - Meperidine hydrochloride (DEMEROL)
 - Phenobarbital

- C. Drugs with high potential for abuse
 - Cyclobenzaprine HCl (FLEXERIL)
 - Primidone (MYSOLINE)
 - Prochlorperazine (COMPAZINE)
 - Promethazine HCl (PHENERGAN)
 - Trimethobenzamide HCl (TIGAN)
 - Baclofen (LIORESAL)
 - Clonidine (CATAPRES)
 - Tramadol hydrochloride (ULTRAM)
 - Podofilox (CONDYLOX)

- D. Others
 - All Injectables
 - INH
 - ALL Anti-Tuberculosis Agents
 - RIBAVIRIN