STATE OF MICHIGAN
ENTERPRISE PROCUREMENT

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

CONTRACT CHANGE NOTICE

Change Notice Number **1**
to
Contract Number **071B6600053**

CONTRACTOR	
	Myres and Ruffino Polygraph, Inc.
	13407 Farmington Road
	Livonia, MI 48150
	Samuel Ruffino Jr.
	313-399-4868
	sruffino@mrpoly.com
	*******4508

STATE			
	Program Manager	Julie Goldman	DOC
		517-373-2852	
		Goldmanj3@michigan.gov	
	Contract Administrator	Will Camp	DTMB
		(517) 284-7022	
		campw@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: Polygraph Examination Services

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
March 10, 2016	March 9, 2019	5 - 1 Year	March 9, 2019

PAYMENT TERMS	DELIVERY TIMEFRAME
3% 5 NET 30	

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☒ Yes	☐ No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$1,210,000.00	$ 0.00	$1,210,000.00

DESCRIPTION: Effective October 1, 2016 this contract is amended as follows:

1) Delete and replace as follows
   a) **Exhibit A Section 1.1(b)**
      There must be a limit of three initial full examinations or four maintenance examinations scheduled per Examiner per day to allow for continuity of test results. Each examination must last, at a minimum, 90 minutes. Examinations shall be administered within five business days of the request, or an alternate date must be approved by the Parole Office Supervisor or Program Manager.

   b) **Exhibit A, Section 1.1 (j)**
      The Contractor must forward a copy of examination results to the Examinee's supervising agent within 10 business days after the examination. The Examinee shall not receive a copy.

c) **Exhibit A, Section 2.1 (a)**

There must be a limit of three (3) initial full or historical examinations, or four (4) maintenance examinations scheduled per Examiner per day to allow for continuity of test results. Each examination must last, at a minimum, 90 minutes. Examinations must be administered within five business days of the request.

d) **Exhibit A, Section 3.4 (b) (1)**

Be licensed by, and in good standing with, the Licensing and Regulatory Affairs (LARA) Board of Forensic Polygraph Examiners and complete the required Continuing Education Units (CEU) credits on an annual basis for license retention. Further, all Examiners must be active members of the APA, and maintain membership during the term of the Contract.

e) **Exhibit A: Section 3.8 Security**

While performing services under this Contract, Contractor staff has access to working with offenders (prisoners, parolees, and probationers). The Contractor must complete the Law Enforcement Information Network (LEIN) Information Form providing the necessary information for those employees working under the Contract that provide direct services, handle or may have access to offender records, or provide supervisory services to staff performing any of the previously identified functions. The LEINs must be conducted to ensure staff working under the Contract have no outstanding warrants, no active personal protection orders for domestic violence, are not currently on probation or parole, or otherwise under the jurisdiction of any federal, State, county or local criminal justice agency, for a minimum of two years. The LEIN Information Form must be sent to the MDOC Program Manager prior to staff working with MDOC offenders and yearly following approval.

In Addition, if an employee of the Contractor or subcontractor has a conviction for any of the following they may not be permitted to enter any MDOC facility which houses prisoners:

1. Engaging in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997);
2. Been convicted of engaging in, attempting to engage in or conspiracy to engage in sexual activity facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; or
3. Been civilly or administratively adjudicated to have engaged in the activity described in Number 2 above.

f) **Exhibit A, Section 4.2 (b)**

The Contractor may participate in regularly scheduled Case Management Team (CMT) meetings as requested by the Parole Office Supervisor. The CMT is a multi-disciplinary group formed to facilitate information sharing and offender management utilizing the Containment Approach Model. Embedded within this model is the principle of victim-centeredness which ensures that the needs of the victims are not overlooked in supervision strategies and that further victimization is prevented.

g) **Exhibit A, Section 4.3 (a)**

The Contractor must complete a report within 15 calendar days after the end of the month showing program activity from the previous two (2) months. The report must be completed using an Excel format and e-mailed to the MDOC Program Manager. This includes, but is not limited to:

(1) Number of examinations completed during the month and year-to-date by county.
(2) Number of examinations completed by Examiner during month and year-to-date.
(3) Number of test results deemed truthful, deceptive and inconclusive by Examiner by month and year-to-date.
(4) Number of pre-test admissions by Examiner during month and year-to-date.
(5) Number of post-test admissions by Examiner during month and year-to-date.

h) **Exhibit H, Polygraph Examination Service Level Agreements**

Denominator 5

The total number of examinees whose verbal report results indicate Examinee “deception” or admitted violation behavior

Denominator 6

The total number of examinees whose report results indicate Examinee “deception” or admitted violation behavior

i) **Standard Contract Terms, Section 4**

Program Manager. The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "**Program Manager**"):

State:
Julie Goldman MDOC Central Office 206 E. Michigan Ave. Lansing, MI 48933 goldmanj3@michigan.gov (517) 373-2852

All other terms, conditions, specifications, and pricing remain the same. Per agency request, contractor agreement and DTMB approval.

Form No. DTMB-3522 (Rev. 10/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

STATE OF MICHIGAN

DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET

PROCUREMENT

525 W. ALLEGAN STREET
LANSING, MI 48933

P.O. BOX 30026
LANSING, MI 48909

NOTICE OF CONTRACT NO. 071B6600053

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Myres and Ruffino Polygraph, Inc	Samuel J. Ruffino Jr.	sruffino@mrpoly.com
13407 Farmington Road, Suite 100	**PHONE**	**VENDOR TAX ID # (LAST FOUR DIGITS ONLY)**
Livonia, MI 48150	313-399-4868	4508

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	MDOC	Virginia Bergamo	517-241-7750	bergamov@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Will Camp	517-284-7022	campw@michigan.gov

CONTRACT SUMMARY

DESCRIPTION:

Polygraph Examination Services

INITIAL TERM	EFFECTIVE DATE	INITIAL **EXPIRATION DATE**	AVAILABLE **OPTIONS**
3 years	3/10/2016	3/9/2019	5, 1-year
PAYMENT TERMS	**F.O.B.**	**SHIPPED TO**	
3% 5 NET 30	N/A	N/A	

ALTERNATE PAYMENT OPTIONS

☐ P-card ☒ Direct Voucher (DV) ☐ Other

EXTENDED **PURCHASING**

☒ Yes ☐ No

MINIMUM DELIVERY REQUIREMENTS

N/A

MISCELLANEOUS INFORMATION

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #007116B0006590. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form, fax, phone, or e-mail.

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION	$1,210,000.00

For the Contractor:

_____ _____

, **Date**

Contract Administrator

For the State:

_____ _____

Tom Falik, **Date**

Director, Services Division

DTMB Procurement

State of Michigan

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services

EXHIBIT A
STATEMENT OF WORK
CONTRACT ACTIVITIES

Project Request
This Contract is for post-conviction polygraph examination services for the Michigan Department of Corrections (MDOC), other State Departments and MiDeal members (authorized local units of government). All examinations performed under the Contract must be administered in accordance with the American Polygraph Association's (APA) testing guidelines. At the conclusion of each examination, the results must be provided to the MDOC.

This Contract covers Prosperity Regions 5, 6, 7, 9, and 10, as outlined in Exhibit D.

Background

The MDOC, Field Operations Administration (FOA), has the exclusive statutory authority to supervise paroled offenders and enforce conditions and terms of parole as imposed by the Michigan Parole Board. Using periodic polygraph examinations will significantly increase the likelihood of detecting illegal and violation behavior, and has been demonstrated to deter parolee violations as well as criminal behavior.

The parolees participating in the Polygraph Monitoring Program are participating as a condition of parole. The Contractor will periodically examine identified offenders to determine whether they are in compliance with their conditions of parole, relapse prevention plan, and treatment objectives. In addition to maintenance examinations (see the definition below), polygraph examinations may be scheduled, at the discretion of MDOC, upon receipt of polygraph reports indicating a deceptive response or other indications of a violation of the offender's parole conditions.

Examination will occur at various MDOC locations throughout the State, and may also occur at public locations approved by the MDOC. The MDOC will provide secure rooms, free of distractions and noise. The actual number of tests to be performed each year will be contingent upon actions/decisions of the State Parole Board, and changes to the parole laws as enacted by the State Legislature. No specific numbers of polygraph examinations are guaranteed to be completed by the Contractor.

There are six different occurrences that can result in payment to the Contractor:

1. Initial Full Examination- The Examinee completes all polygraph examination requirements during the first scheduled examination.

2. Maintenance Examination- A compliance-related examination where the examiner investigates, either periodically or randomly compliance with any of the designated terms and conditions of an Examinee's parole and treatment rules.
3. Historical Examinations- These are two types of compliance-related examinations:
    a. Exam (I) - The examiner thoroughly investigates an Examinee's lifetime history of sexual victimization of others, including behaviors related to victim selection, victim access, victim

impact, and sexual offenses against unreported persons. This exam also provides information about the Examinee's capacity for grooming, sneakiness, violence, relationship-building and relationship-exploiting in addition to the capacity to offend in the absence of a relationship.

b. Exam (II) - The examiner thoroughly investigates an Examinee's lifetime history of sexual deviancy, preoccupation, and compulsivity behaviors not including those behaviors described in the Historical Examination (I). This exam may be most important for those who substantially deny involvement in sexual deviancy, compulsivity and preoccupation behaviors.

4. Deceptive / Inconclusive Retest- This exam is used after an Examinee has been previously tested and the results indicated that the Examinee was Deceptive or the examiner could not conclude if the test results were Truthful or Deceptive.

5. Failure to Show- Examinee does not attend scheduled examination, and did not give a 24 hour notification

6. Unable to test- Examinee has positive drug or alcohol test immediately prior to scheduled exam, so cannot test.

1. Requirements

The 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:

1.1 Examinations

a. All examinations must consist of, but are not be limited to:
    1. A written pre-examination interview which includes a consultation with the parole agent to assess the offender's suitability for testing.
    2. Three issue specific tests.
    3. A written post-examination interview.

In addition, Examiners may include a stimulation test in the examination process.

b. There must be a limit of three initial full examinations or four maintenance examinations scheduled per Examiner per day to allow for continuity of test results. Each examination must last, at a minimum, 90 minutes. Examinations must be administered within five business days of the request.

c. All examinations must be conducted using, as a minimum standard, a three pen recording device that measures breathing, heart rate and galvanic skin response.

d. All examinations must be conducted in compliance with governing local, State and federal regulations and laws:
    1. The Examiner must make reasonable efforts to determine that the Examinee is a fit subject for examination. Basic inquiries into the medical and psychological condition of the Examinee as well as any recent drug use should be made. Mental, physical or medical

conditions of the Examinee that should be observable to, or that should be reasonably known by the Examiner, should also be evaluated prior to examination. No test should be conducted where valid results could not be reasonably foreseen.

2. During the pre-test interview, the Examiner will specifically inquire of the person to be examined whether or not he or she is currently receiving or has in the past received medical or psychiatric treatment or consultation.
3. If an Examiner has a reasonable doubt concerning the ability of the Examinee to safely undergo an examination, a release from the Examinee and his or her physician must be obtained from the supervising agent.

e. Conditions under which public examination occurs must be free from distractions that would interfere with the ability of the Examinee to appropriately focus on the issues being addressed. The examination site should be relatively free from outside noise and distractions. A public examination occurs only when a suitable space cannot be provided by the MDOC.

f. Examiners performing live polygraph examinations must not render opinions regarding the truthfulness or deception of the Examinees. Examiners must attempt to ensure that reenactments of polygraph examinations are clearly conveyed as such to parole agents and the MDOC Program Manager. An Examiner must, prior to the examination, dedicate sufficient time to identify the issues and any potential problem in any area of examination. If problems are identified, the examination must be rescheduled and notification of cancellation must be forwarded immediately to the supervising agent.

g. All recorded physiological data obtained from the pre-examination interview must be retained as part of the examination file as long as required by regulation or law, but for a minimum of one year.

h. Each single-issue examination must employ a technique and format that has been validated through research.

i. Examinations may be considered compliance-related polygraphs, which take into account both stable and acute dynamic risk factors related to treatment and supervision. In addition, historical examinations may be used as part of treatment protocols and supervision strategies. Tests that address events after parole begins are considered supervisory and may address only parole violations. These include:
    1. A maintenance examination to investigate parole violations/compliance with parole conditions.
    2. A maintenance examination, in addition to a historical examination, can be used to investigate treatment issues.

j. The Contractor must forward a copy of examination results to the Examinee's supervising agent within 10 business days. The Examinee shall not receive a copy.

1.2 Pre-Examination Practices

a. The Examiner must obtain information sufficient to identify the Examinee.

b. The Examiner must obtain the consent of the Examinee prior to examination. If the examinee refuses, the supervising agent must be notified immediately.
c. Sufficient time must be spent to ensure that the Examinee has a reasonable understanding of the polygraph process and the requirement for cooperation.
d. Sufficient time must be spent to discuss the issues to be tested and to allow the Examinee to fully explain their answers.
e. Sufficient time must be spent to ensure the Examinee recognizes and understands each question. Attempts by the Examinee to rationalize should be neutralized by a pre-test discussion in which the Examinee demonstrates they understand the test questions to have the same meaning as the Examiner. Questions must be asked in a form that would prevent a reasonable person, facing a significant issue, from successfully engaging in a rationalization process to avoid culpability.
f. The Examiner must not express bias in any manner regarding the truthfulness of the Examinee prior to the completion of examination.

1.3 Additional Examinations

Additional Examinations refer to when more than one examination is needed. Additional examinations shall be priced at the same rates as correlating examinations. The Contractor must seek approval from the MDOC Program Manager to conduct additional examinations on an Examinee when the following conditions are present:

a. Examination has resulted in two consecutive findings of “deception” indicated.
b. Examination has resulted in two consecutive “inconclusive” results.
c. If deemed necessary by the Case Management Team, a sexual history or instant offense examination may be scheduled if the information anticipated will aide in the supervision or treatment of the client.

1.4 American Polygraph Association By-Laws

a. All examinations performed under the Contract must be administered consistent with the American Polygraph Association (APA) By-Laws (Exhibit E).

b. The polygraph examination must be conducted with APA approved instrumentation and must record, at a minimum, the following channels or components:
    1. Respiration patterns recorded by pneumograph components. Thoracic and abdominal patterns must be recorded separately, using two pneumograph components.
    2. Electrodermal activity reflecting relative changes in the conductance or resistance of current by the epidermal system.
    3. Cardiograph to record relative changes in pulse rate, pulse amplitude, and relative blood volume.

The polygraph must be given a functionality or calibration test consistent with manufacturer recommendations and a record kept of the date and time of each calibration and who conducted the test. The functionality or calibration test must be administered prior to all evidentiary examinations. At a minimum, the test results must be maintained by the Examiner for no less than one year. Compliance with State and federal law is required.

1.5 Quality Assurance and Control

a. Quality Assurance Program

The Contractor shall provide detail regarding any Quality Assurance Program(s) that are currently in place within its organization.

b. Quality Control
The Contractor is required to participate in a quality control procedure for examinations. This may include, but is not limited to, a chart review process conducted by MDOC or its authorized agent. The Contractor must maintain polygraph charts in record retention for 24 months after the examinations take place.

1.6 Notifications

a. The Contractor must develop a plan for immediate notification to MDOC concerning Examinee failure to appear for a scheduled examination or cancellation of appointment by Examinee/ parolee.

b. The Contractor must develop a procedure for immediate notification to MDOC if Examinee confesses to any new crimes or violations of parole conditions since their last examination.

1.7 Product Development

The Contractor must remain current with research in the field, legal updates, and new testing technology.

1.8 Training

a. The Contractor must require staff to participate in training programs and/or conferences as it relates to performance of the Contract or enhancing services to clients.

b. A minimum of 40 hours of post-conviction specialized instruction, beyond the basic polygraph Examiner training course requirement, must be a requisite for those who conduct sexual offender examinations.

c. The Contractor must employ quality assurance measures by developing a plan for professional development for each staff member assigned to the Contract, on an annual basis and monitor and document staff progress toward professional development goals as part of the staff member's performance evaluation.

d. The Contractor must train Examiners on parole agent referral process and examination reporting requirements. Provide general orientation training to parole agents on the use of the polygraph.

1.9 Vendor Handbook

The Contractor will require all its employees working inside an MDOC correctional facility, to read and sign the MDOC Vendor Handbook (Exhibit F). The purpose of the MDOC Vendor Handbook is to provide contractors with general information regarding basic requirements of working within the MDOC, provide notice of work rules and consequences of rule violations. The awarded Contractor must provide copies of each signed Employee Acknowledgment to the Program Manager at the completion of the employee's orientation.

1.10 Prison Rape Elimination Act (PREA) of 2003: Public Law 108-79, Sept. 4, 2003.

The Contractor must comply with the Federal Register and the MDOC Prison Rape Elimination Act, 28 CFR Part 115, Prevention Plan. The Contractor must immediately refer any allegations or forms of sexual abuse or sexual harassment (staff-on-prisoner and prisoner-on-prisoner) to the MDOC Contract Compliance Inspector in

writing. The Contractor shall ensure compliance with the National Standards to Prevent, Detect and Respond to Prison Rape, effective August 20, 2012 at http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-12427.pdf. See attached PREA standards (Exhibit G). If the Contractor does not abide by these standards, it will be considered a breach of Contract.

2. Acceptance

2.1 Acceptance, Inspection and Examination

The State will use the following criteria to determine acceptance of the Contract Activities:

a. There must be a limit of three (3) preliminary examinations or four (4) follow-up examinations scheduled per Examiner per day to allow for continuity of test results. Each examination must last, at a minimum, 90 minutes. Examinations must be administered within five business days of the request.
b. All required reports have been completed and submitted for review to the MDOC program manager.
c. All Requirements are adhered to per Section 1.

3. Staffing

3.1 Contractor Representative

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

Samuel J. Ruffino Jr.
13407 Farmington Road, Suite 100]
Livonia, MI 48150
sruffino@mrpoly.com
313-399-4868

3.2 Customer Telephone Number

The Contractor must specify its telephone number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8 a.m. to 5 p.m. EST.

The telephone number is 313-399-4868

3.3 Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday 8:00 a.m. to 5:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project. Overtime, holiday pay, shipping costs, and travel expenses will not be paid.

3.4 Key Personnel

a. The Key Personnel for this Contract will be Examiners. The Contractor must provide and maintain sufficient polygraph examination staff to satisfy examination demand within the State of Michigan. The Contractor must provide the State with copies of the Examiners' licenses and resumes, documenting all previous polygraph examination experience for approval.

b. All Examiners must:
   1. Be licensed by, and in good standing with, the Consumer and Industry Services Board of Forensic Polygraph Examiners and complete the required Continuing Education Units (CEU) credits on an annual basis for license retention. Further, all Examiners must be active members of the APA, and the Michigan Association of Polygraph Examiners (MAPE), and maintain membership in same during the term of the Contract.
   2. Have one (1) year of documented experience in polygraphing offenders, particularly sex offenders for MDOC requests.
   3. Comply with all State of Michigan continuing education requirements.

   4. A Polygraph Examiner conducting evidentiary examinations must have completed a minimum of 30 Continuing Education hours every two (2) years.

Evidentiary examinations must be conducted only by Full or Associate members. Intern members can conduct evidentiary examinations only by written stipulation of the parties, or under the supervision of a Full or Associate member.

3.5 The Contractor must immediately report any and all known criminal arrests (excluding traffic), or loss of license by its staff which may occur during the performance of the Contract.

3.6 The Contractor must develop a plan for periodic on-site Examiner auditing.

3.7 Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

a. The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
b. The relationship of the subcontractor to the Contractor.
c. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
d. A complete description of the Contract Activities that will be performed or provided by the subcontractor.
e. Of the total bid, the price of the subcontractor's work.
f. The MDOC will conduct LEIN checks of subcontractor staff prior to their being approved to administer any examinations.

3.8 Security

The Contractor will be subject to the following security procedures for MDOC requests:

a. All Contractor staff working on the Contract must undergo a security and background check, to include at a minimum ICHAT http://apps.michigan.gov/ichat/home.aspx, to be performed by the Contractor.
b. The Contractor's and subcontractor's staff that are entering an MDOC facility must be LEIN cleared by MDOC prior to facility entry. The Contractor must submit the LEIN information to the MDOC Program Manager at least two business days prior to the facility visit. If an employee of the Contractor's or subcontractor's has a felony or misdemeanor conviction (excluding minor driving offenses), that employee may not be permitted to enter any MDOC facility.

c. The awarded Contractor's staff may be required to complete and submit an RI-8 Fingerprint Card for Finger Print Checks.
d. The Contractor must anticipate delays when visiting any facility due to issues within that facility.
e. All vehicles entering a MDOC correctional facility must be inspected before entry of the secure perimeter.
f. The MDOC reserves the right to deny access to any facility to any Contractor(s)/subcontractor(s) staff members who fails to comply with any applicable State, federal or local law, ordinance or regulation or whose presence may compromise the security of the facility, its members or staff.
g. All drug, alcohol and tobacco products are prohibited at all correctional facilities.
h. Weapons, fireworks and explosives are prohibited from all State facilities.
i. All cellular devices are prohibited from all correctional facilities.
j. Contractor(s) that come into the Administration Building of a correctional facility will need to secure their cellular devices and personal tobacco products in their locked vehicle prior to entrance. If the Contractor arrives with such products, the Contractor will be requested to return them to their vehicle.
k. Reserved.
l. The Contractor's staff will be required to enter State facilities. The Contractor must: (1) ensure the security of State facilities, and (2) perform background checks. The State may require the Contractor's personnel to wear State issued identification badges.

4. Project Management

4.1 Project Plan

Within 10 days of the Contract Effective Date, the Contractor must submit to the MDOC Program Manager, for approval, final implementation and transition plans with any differences noted. These preliminary and final plans must include the following:

a. The Contractor's project organizational structure.
b. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.

4.2 Meetings

a. Program Manager Meeting

Although there will be continuous liaison with the Contractor staff, the Contractor Representative must meet on an as needed basis with the MDOC Program Manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.

b. Case Management Team Meetings

The Contractor must participate in regularly scheduled Case Management Team (CMT) meetings as required by the Parole Office Supervisor. The CMT is a multi-disciplinary group formed to facilitate information sharing and offender management utilizing the Containment Approach Model. Embedded within this model is the principle of victim-centeredness which ensures that the needs of the victims are not overlooked in supervision strategies and that further victimization is prevented.

4.3 Reports

a. Aggregate Report

The Contractor must complete a report within 15 calendar days after the end of the month showing program activity from the previous two (2) months. The report must be completed using an Excel format and e-mailed to the Manager of Community Corrections and the MDOC Program Manager. This includes, but is not limited to:

1. Number of examinations completed during the month and year-to-date by county.
2. Number of examinations completed by Examiner during month and year-to-date.
3. Number of test results deemed truthful, deceptive and inconclusive by Examiner by month and year-to-date.
4. Number of pre-test admissions by Examiner during month and year-to-date.
5. Number of post-test admissions by Examiner during month and year-to-date.

b. Examiners Report

The Contractor must provide examiner reporting for every examination including, but not limited to:

1. A verbal summary of examination results to the referring Agent or his/her Supervisor on the day of the examination.
2. A written summary of examinations results to the referring Agent or his/her Supervisor on the day of the examination.
3. A written report of examination findings within five (5) working days of the examinations to the Agent/Supervisor which includes, but is not limited to:
    a. Examinee name and parole number
    b. Date of examination
    c. List of specific issue questions and results
    d. Pre- and post-test admissions, if any
4. A verbal notification to MDOC relaying pertinent issues regarding the polygraph process within eight (8) business hours of any examination report results that indicate Examinee “deception” or admitted violation behavior.
5. A written notification to MDOC within five (5) business days of any examination report results that indicate Examinee “deception” or admitted violation behavior.

c. Program Manager Report

The Contractor must submit written monthly summaries within 15 calendar days after the end of the month to the MDOC Program Manager of progress that must state:

1. Work accomplished during the reporting period
2. Work to be accomplished during the subsequent reporting period
3. Problems, real or anticipated, which should be brought to the attention of the Contractor Representative
4. Notification of any significant deviation from previously agreed-upon work plan.

5. Ordering

5.1 Authorizing Document

The appropriate authorizing document for the Contract will be a purchase order.

6. Invoice and Payment

6.1 Invoice Requirements

All invoices submitted to the State must include:

a. Examinee’s name

b. Examinee's Prison Number
c. Date of Exam
d. Description of the Contract Activities
e. Unit price
f. Total Price

Overtime, holiday pay, shipping costs, and travel expenses will not be paid.
Contractor must submit invoices and documentation to the State within 15 calendar days after the end of the month in which the service was provided. Any invoice received beyond this date may be deemed void and not reimbursable.

6.2 Payment Methods
The State will make payment for Contract Activities Electronic Funds Transfer (EFT).

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services

EXHIBIT B

RESERVED

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services

EXHIBIT C
PRICING

1. **Regions**

   See State of Michigan Prosperity Regions in Exhibit D. The Contractor's selected regions follow:

   X Region 5 – East Central Michigan Prosperity Region
   X Region 6 – East Michigan Prosperity Region
   X Region 7 – South Central Prosperity Region
   X Region 9 – Southeast Michigan Prosperity Region
   X Region 10 – Detroit Metro Prosperity Region

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

3. Contractor's Quick Payment Terms:

3% 5 NET 30

4. **Price Term**

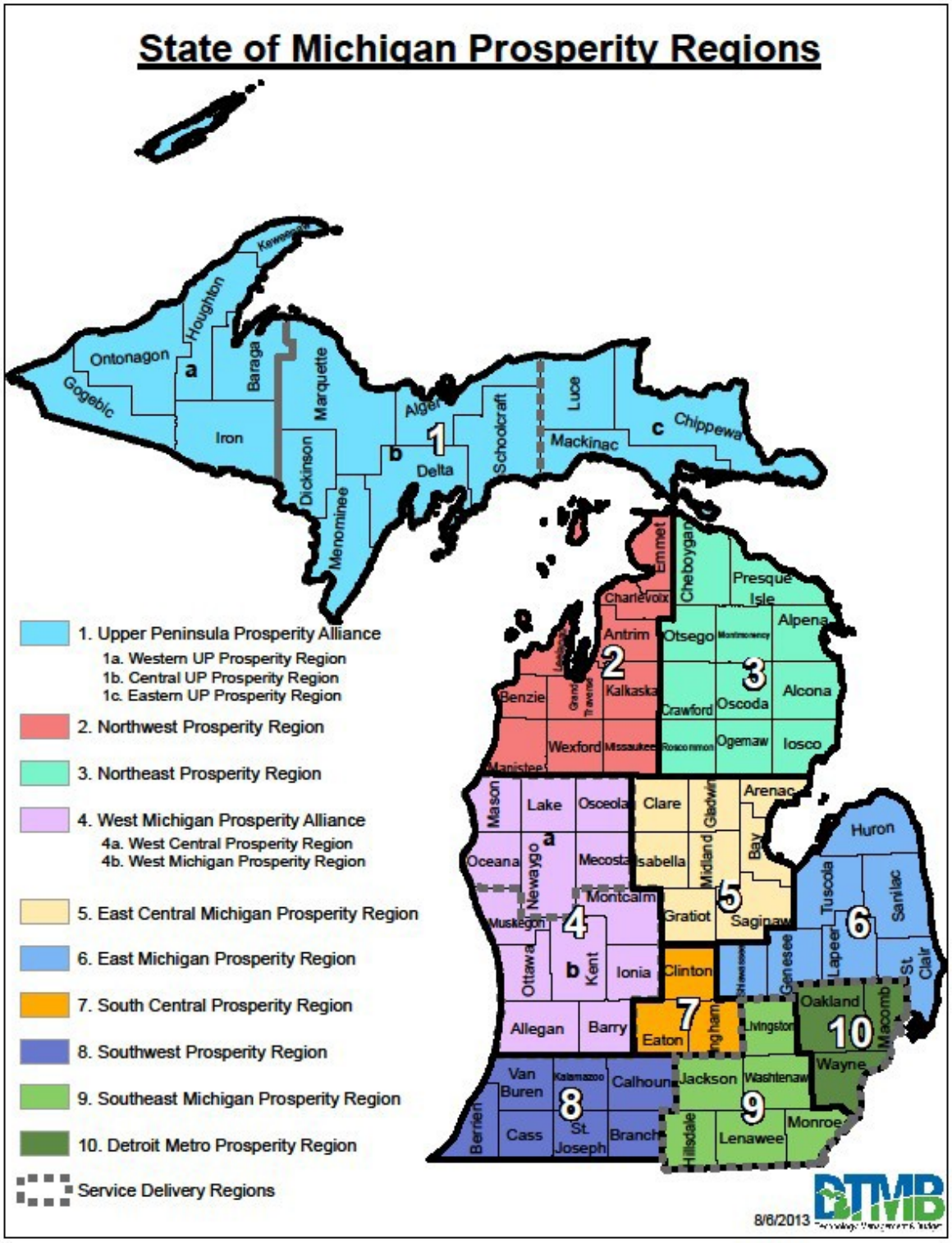
   Pricing is firm for the entire length of the Contract.

Regions 5, 6, 7, 9, 10	**Cost per Occurrence**
Initial Full Examination	$400
Maintenance Examination	$345
Historical Examination (I)	$400
Historical Examination (II)	$400
Deceptive / Inconclusive Retest	$345
Failure to Show (without 24 hour notification)	$150
Unable to test (positive drug or alcohol test immediately prior to scheduled exam)	$150
	Hourly Rate
General Rate (rate for Case Management Team Meetings, testifying at a parole violation hearing)	$50

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services

EXHIBIT D
Prosperity Regions


State of Michigan Prosperity Regions
1. Upper Peninsula Prosperity Alliance
1a. Western UP Prosperity Region
1b. Central UP Prosperity Region
1c. Eastern UP Prosperity Region
2. Northwest Prosperity Region
3. Northeast Prosperity Region
4. West Michigan Prosperity Alliance
4a. West Central Prosperity Region
4b. West Michigan Prosperity Region
5. East Central Michigan Prosperity Region
6. East Michigan Prosperity Region
7. South Central Prosperity Region
8. Southwest Prosperity Region
9. Southeast Michigan Prosperity Region
10. Detroit Metro Prosperity Region
Service Delivery Regions
Ontonagon
Houghton
Baraga
Marquette
Gogebic
Iron
Dickinson
Menominee
Alger
Delta
Schoolcraft
Luce
Mackinac
Chippewa
Emmet
Cheboygan
Presque Isle
Charlevoix
Antrim
Otsego
Alpena
Benzie
Kalkaska
Crawford
Oscoda
Alcona
Wexford
Ogemaw
Iosco
Manistee
Mason
Lake
Osceola
Clare
Gladwin
Arenac
Huron
Oceana
Newaygo
Mecosta
Isabella
Midland
Bay
Tuscola
Sanilac
Montcalm
Gratiot
Saginaw
Muskegon
Ottawa
Kent
Ionia
Clinton
Genesee
Lapeer
St. Clair
Allegan
Barry
Eaton
Ingham
Livingston
Oakland
Macomb
Wayne
Van Buren
Kalamazoo
Calhoun
Jackson
Washtenaw
Berrien
Cass
St. Joseph
Branch
Hillsdale
Lenawee
Monroe
DTMB
8/6/2013

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services
EXHIBIT E

American Polygraph Association Bylaws, available at: http://www.polygraph.org/apa-bylaws-and-standards

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services
EXHIBIT F

MDOC Vendor Handbook:
Available from the Program Manager

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services
EXHIBIT G

(Reserved)
Please see the link to PREA standards provided in the contract.

STATE OF MICHIGAN

Contract No. 071B6600053
Polygraph Examination Services

EXHIBIT H
Service Level Agreement

Background
The MDOC will be utilizing a series of metrics to monitor contractor performance. Each identified performance metric includes the information that will be assessed or an explanation of the numerator and denominator of the metric, the minimum threshold that needs to be met, and the service credit for not meeting the threshold. By utilizing metrics, MDOC will ensure that its service goals drive continuous improvement and efficiency.

The minimum threshold for each metric will be reviewed with the Contractor, and may be revised on an annual basis if needed. The metrics have been derived from key areas of the Contract which include credentialing, training and timeliness of polygraph examination verbal and written reports.

Purpose and Objectives
The Performance Metrics defined in this attachment represent MDOC's expectations as they relate to important contract obligations. These standards are based on current MDOC Policies, Protocols and Procedures, and represent the level of expected performance as it relates to providing services. These performance reviews will occur in the first six months of the Contract, but will not have a financial implication until the seventh month of the Contract to allow time for the Contractor to establish processes to ensure compliance.

Audit Process
The specifications listed under each metric name will be reviewed and audited according to the timetable listed for each metric. Audits will be conducted by MDOC staff, with specific data elements for the audit being shared with the Contractor prior to the audit. Records being audited include, but are not limited to:

- The current Polygraph Examination Services Contract
- MDOC Policies, Procedures and Protocols

Service Level Agreements (SLAs) that are determined to fall below the compliance percentage will be re-evaluated during the next audit period (monthly, quarterly or annually). In the event they continue to fall below the threshold, the penalty amount shall be double the original assessment.

A phased-in or tiered level of threshold compliance will be utilized as part of the process. This will allow for corrective actions and operational improvements to be implemented which will impact successive performance audits. Tier One represents thresholds for year one of the Contract and Tier Two represents all subsequent years of the Contract.

Corrective Action Plan
The Contractor must prepare and implement a corrective action plan (CAP) within 30 days for each metric that falls below the target or threshold. This does not in any way limit the State's ability to assess service credits where the metric falls below the minimum threshold.

CAPs will be provided in a standardized format throughout the Contract and the template will be provided by the MDOC.

Polygraph Examination Service Level Agreements						
Number	**Metric Name/Description**	**Timeframes**	**Numerator**	**Denominator**	**Minimum Threshold**	**Credits**
1	Credentialing – All contracted personnel are appropriately licensed with the Consumer and Industry Services Board of Forensic Polygraph Examiners and active members of the APA and Michigan Association of Polygraph Examiners (MAPE). *Exhibit A, Section 3.4*	Annual			100% for all years	$10,000.00 per occurrence
2	Training – All licensed polygraphers must complete the required Continuing Education Units (CEU) credits every 2 years for license retention. *Exhibit A, Section 3.4*	Annual			100% for all years	$1,000.00 for each staff member that does not complete their CEU credits.
3	Failure to Show Notification *Exhibit A, Section 1.6*.	Quarterly	The number of notifications that were sent immediately by the Contractor to the MDOC for examinee's who failed to appear for a scheduled examination	The total number of examinees who failed to appear for a scheduled examination	100% for each quarter	$5,000 for each notification that is not received
4	New Crime Notification *Exhibit A, Section 1.6*	Quarterly	The number of notifications that were sent immediately by the Contractor to the MDOC for examinees who confessed to a new crime	The total number of examinees who confessed to a new crime	100% for each quarter	$5,000 for each notification that is not received
5	Reports *Exhibit A, Section 4.3, b4*	Quarterly	The total number of verbal notification relaying pertinent issues regarding the polygraph process to MDOC within eight (8) business hours of examination results that indicate Examinee "deception" or admitted violation behavior	The total number of examinees whose verbal reports were not received within eight (8) business hours of examination results that indicate Examinee "deception" or admitted violation behavior	100% for each reporting quarter	$5,000 for each verbal report that is not received timely

6	Reports *Exhibit A, Section 4.3, b5*	Quarterly	The total number of reports received within five (5) days of examination report results that indicate Examinee “deception” or admitted violation behavior.	The total number of examinees whose reports were not received within five (5) business days of examination results that indicate Examinee “deception” or	100% for each reporting quarter	$5,000 for each verbal report that is not received timely

STATE OF MICHIGAN
STANDARD CONTRACT TERMS

STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Myres and Ruffino Polygraph, Inc ("**Contractor**"), a Michigan Corporation. This Contract is effective on March 10, 2016 ("**Effective Date**"), and unless terminated, expires on March 9, 2019.

This Contract may be renewed for up to five additional one year period(s). Renewal must be by written agreement of the parties and will automatically extend the Term of this Contract.

The parties agree as follows:

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

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

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

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

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

If to State:	If to Contractor:
William Camp *525 W. Allegan St, PO Box 30026* *Lansing, MI, 48933* *Campw@michigan.gov* *517-284-7022*	Samuel J. Ruffino Jr. 13407 Farmington Road, Suite 100] Livonia, MI 48150 sruffino@mrpoly.com 313-399-4868

3. **Contract Administrator.** The Contract Administrator (i.e. Buyer) for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a "**Contract Administrator**"). The Contract Administrator will work with the Contract Manager prior to changing contract terms:

State:	Contractor:
William Camp *525 W. Allegan St, PO Box 30026* *Lansing, MI, 48933* *Campw@michigan.gov* *517-284-7022*	Samuel J. Ruffino Jr. 13407 Farmington Road, Suite 100] Livonia, MI 48150 sruffino@mrpoly.com 313-399-4868

3.1 Contract Manager/. The Contract Manager for each party is the sole point of contact for each party on all contract related issues. The Contract Manager will work with the Contract Administrator/Buyer if there are reasons to modify any terms of this Contract:

State:	Contractor:
Destinie Shipman MDOC Central Office 206 E. Michigan Ave. – 5th Floor Grandview Plaza Lansing, MI 48933 shipmand@michigan.gov (517) 373-3320	Samuel J. Ruffino Jr. 13407 Farmington Road, Suite 100] Livonia, MI 48150 sruffino@mrpoly.com 313-399-4868

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "**Program Manager**"):

State:	Contractor:
Virginia Bergamo Office of Substance Abuse Services P.O. Box 3003 Lansing, MI 48909 bergamov@michigan.gov Phone: 517-241-7750	Samuel J. Ruffino Jr. 13407 Farmington Road, Suite 100] Livonia, MI 48150 sruffino@mrpoly.com 313-399-4868

5. **Performance Guarantee**. Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.

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

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
Minimal Limits: $1,000,000 Each Occurrence Limit $1,000,000 Personal & Advertising Injury Limit $2,000,000 General Aggregate Limit $1,000,000 Products/Completed Operations Deductible Maximum: $50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Automobile Liability Insurance	
Minimal Limits: $1,000,000 Per Occurrence	
Workers' Compensation Insurance	
Minimal Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimal Limits: $500,000 Each Accident $500,000 Each Employee by Disease $500,000 Aggregate Disease.	
Privacy and Security Liability (Cyber Liability) Insurance	
Minimal Limits: $1,000,000 Each Occurrence $1,000,000 Annual Aggregate	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability. This coverage may be included in the Professional Liability (Errors & Omissions) policy.

Professional Liability (Errors and Omissions) Insurance	
Minimal Limits: $1,000,000 Each Occurrence $1,000,000 Annual Aggregate Deductible Maximum: $50,000 Per Loss	

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

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.
This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **MiDEAL Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all MiDEAL payments made to Contractor under the Contract including transactions with MiDEAL members and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
Financial Services – Cashier Unit
Lewis Cass Building
320 South Walnut St.
P.O. Box 30681
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.
The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

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

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

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

9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.

13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract

to a third party is necessary, Contractor will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Contract.

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

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

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Exhibit A.

16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

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

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

17. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Exhibit A. All containers and packaging becomes the State's exclusive property upon acceptance.

18. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned

by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

19. **Warranty Period**. The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Exhibit A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.

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

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

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

21. **Reserved.**

22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

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

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

24. Termination for Convenience. The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

25. Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to:
(a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee;
(c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

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

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

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

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

27. Infringement Remedies. If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

28. Limitation of Liability. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

29. Disclosure of Litigation, or Other Proceeding. Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

30. Reserved.

31. State Data.

a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the

Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.

b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.

d. Backup and Recovery of State Data. Unless otherwise specified in Exhibit A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Exhibit A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.

e. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected

individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section survives the termination of this Contract.

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

a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and

each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any non-State Data Confidential Information is not feasible, such party must destroy the non-State Data Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.

33. Data Privacy and Information Security.

a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.

b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.

c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. Reserved.

35. Reserved.

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

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

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

37. Warranties and Representations. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. Conflicts and Ethics. Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or

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

39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.

40. **Reserved.**

41. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq*., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq*., Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.

42. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

43. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.

44. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.

45. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

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

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

47. Media Releases. News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

48. Website Incorporation. The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

49. Order of Precedence. In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.

50. Severability. If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.

51. Waiver. Failure to enforce any provision of this Contract will not constitute a waiver.

52. Survival. The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

53. Entire Contract and Modification. This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").