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 **071B6600073**

CONTRACTOR	
	Staples Contract & Commercial Inc.
	500 Staples Drive
	Framingham, MA 01702
	Roberta Delo
	517-204-0339
	roberta.delo@staples.com
	*******0816

STATE			
	Program Manager	Various	By Agency
		@Michigan.gov	
	Contract Administrator	Valerie Hiltz	DTMB
		(517) 284-7026	
		hiltzv@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Office Supplies			
INITIAL EFFECTIVE DATE	**INITIAL EXPIRATION DATE**	**INITIAL AVAILABLE OPTIONS**	**EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW**
April 25, 2016	May 31, 2017	2 - 1 Year	May 31, 2017
PAYMENT TERMS		**DELIVERY TIMEFRAME**	
		Next day for orders placed/approved before 4:00 pm	
ALTERNATE PAYMENT OPTIONS			**EXTENDED PURCHASING**
☒ P-card	☒ Direct Voucher (DV)	☐ Other	☒ Yes ☐ No
MINIMUM DELIVERY REQUIREMENTS			
None			

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
$34,000,000.00	$ 0.00	$34,000,000.00

DESCRIPTION:

Effective June 24, 2016, the following amendments are hereby incorporated into the contract:

1. The contract will allow for alternate payment method via Direct Voucher.

2. Contract language is being added regarding Proprietary Items and Schedule A, 1.1 Deliverables is amended as attached.

3. Three Items are being added to the core as per changes reflected in Schedule B as attached.

All other terms, conditions, specifications and pricing remain the same. Per DTMB Procurement and Contractor agreement, and DTMB Procurement Approval.

1. General Requirements

1.1. Deliverables

The Contractor must provide the following Deliverable(s):

a. The Contractor will be required to deliver to all State agencies and MiDEAL members located in the state of Michigan (border to border).

b. Contract Items
Contract items are listed in the following 27 categories (some restrictions will apply). Revisions to this list during the contract term shall be mutually agreed upon by the State and Contractor:

Category #	Category
1	Binders & Binding Systems
2	Calendars/ Dated Goods
3	Converted paper Product
4	Copy Paper
5	Facilities Breakroom
6	Facilities Chemical
7	Facilities Equipment
8	Facilities Liners
9	Facilities Paper
10	Facilities Soap
11	Facilities Supplies
12	Filing & Record Storage
13	Inkjet Supplies- OEM
14	Inkjet Supplies- Remanufactured
15	Labels and Mailing Supplies
16	Miscellaneous Office Products
17	Office Accessories
18	Pens, Pencils & Correction
19	School Art Supplies
20	School Paper
21	School Supplies
22	Specialty Paper Products
23	Technology Products
24	Toner- OEM (Hewlett Packard Only)
25	Toner- OEM (Except Hewlett Packard)
26	Toner- Remanufactured
27	Furniture

The item listing and pricing for each category can be found in Schedule B – Pricing.

c. Alternate Items
The Contractor may offer alternate products meeting or exceeding original specifications at a similar or a lower cost to be approved by the State. A proposed alternate must clearly describe all variances from the specifications and must include descriptive literature that contains complete specifications, if available.

d. Proprietary Items

This contract also includes Proprietary Items, which are items that are purchased and warehoused by the Contractor specifically for use and purchase by the State. Those items are as listed herein. This list may be modified per change notice.

1. Items.
    i. 15” x 12” x 9.75” 44ECT, C Flute Kraft RSC, Glued, 1 color imprint – SOM Records Management Storage Box. Initial Estimated Annual Usage- 30,000 Each, Minimum Run of 9000, Price per box $1.03
    ii. 26” x 12” x 9.75” 44ECT, C Flute Kraft RSC, Glued, 1 color imprint- SOM Records Management Storage Box. Initial Estimated Annual Usage- 1,000 Each, Minimum Run of 1000, Price per box $2.93

2. Initial Order. Prior to the manufacture of these proprietary items and the purchase and warehousing on the part of the Contractor, the Contractor shall supply to the State proofs and/or samples of each items which shall approved by the Contract Administrator or designee prior to a full production run.

3. Inventory Levels. The State shall provide to the Contractor an initial estimated annual usage for each Proprietary Item. The estimated annual usage is based on historic data and does not guarantee that this is the quantity that will be purchase on an annual basis. This estimate becomes the basis of the initial run and a forecast of the provision of the item during the first year of the contract or of when the items is added. Subsequently, the Contractor shall monitor usage on a monthly basis and adjust ordering of the items to maintain the proper inventory levels.
    i. Contractor shall purchase and maintain up to a 90 day supply of Proprietary Products. If the contractor elects to warehouse more than a 120 day supply of any proprietary item the contractor does so at their own risk.
    ii. The State acknowledges that the manufacturer of the Proprietary Item may have a minimum production run requirement.

4. Prices. Pricing for Proprietary Items shall conform to the schedule set forth for all negotiated “Core” items per Section 4.1 Price Term. There are no separate initial set up fees. Price changes will be per Section 4.2 Price Changes.

5. Changes to Proprietary Item after Initial Introduction. Should the State require changes to a Proprietary Item, the Contractor shall provide a quotation to the Contract Administrator for any costs incurred to a change in design or imprinting. The price adjustments, if any, will be made via Change Notice. The State shall supply camera-ready artwork and design specifications if required to the Contractor. The Contractor shall supply to the State proofs and/or samples of revised items which shall be approved by the Contract Administrator or designee prior to a full production run.

6. Discontinuation. Should the State deem an inventoried Proprietary Item no longer necessary, the Contractor shall be given a (60) sixty day written notice of its intent to discontinue. Upon receipt of this notice, the Contractor shall cease to purchase additional Proprietary Items from the manufacturer unless a last purchase is requested by the Contract Administrator. The Contractor shall provide to the State a list indicating the quantity of remaining stocked and warehoused Proprietary items. The State shall purchase and take delivery, at a location of the State's choosing within (60) sixty days, of at least the 120 day supply of remaining Proprietary Items ordered and warehoused on behalf of the State, as defined in 1.1.7, and the State shall make payment for the Items once delivered as per the terms of this contract.

7. Termination. Upon expiration or termination of the contract the Contractor shall provide to the State a list indicating the quantity of remaining stocked and warehoused Proprietary items. The State is not obligated to purchase more than a 120 day supply of proprietary items, as determined by the average monthly usage of the previous fiscal year total usage, and shall provide to the Contractor instructions for disposition of all remaining Proprietary Items ordered and warehoused on behalf of the State if applicable. The State shall make payment for the Items once delivered as per the terms of this contract.

Category	Item # by Category	Staples SKU	Staples Desc	Unit	Unit Qty	Mfg Number	Staples Price	CN 1 7/1/2016
Facilities Breakroom	6	391752	PRE-MOISTENED TISSUES-100CT	BX	100	8574GM	$ 12.57	
Facilities Breakroom	7	506268	MAT HVY-DTY ANTI-FTG 2X3 BLACK	EA	1	CWNCD0023DB	$ 43.49	
Facilities Breakroom	8	817982	FLR MAT CUSH 3X5 GREY	EA	1	CWNCU3660GY	$136.39	
Facilities Breakroom	9	758221	CART UTLTY 4IN SWVLCASTR BK	EA	1	FG342488BLA	$204.59	
Facilities Chemical	1	616319	CLOROX DISINF WIPE FRESH 75CT	EA	1	15949	$ 4.27	add
Facilities Chemical	1	616321	CLOROX DISINF WIPE LEMON 75CT	EA	1	15948	$ 4.83	add
Facilities Equipment	1	818704	AIR CLEANER PURIFIER HERP ROUN	EA	1	HWL50250	$251.09	
Facilities Equipment	2	943891	HOLMES OPP HEATER FAN	EA	1	HFH103-UM	$ 17.99	
Facilities Equipment	3	949470	DESKTOP HEATER WITH VIZIHEAT	EA	1	HFH421-UM	$ 27.99	
Facilities Paper	1	493463	C-FOLD TOWELS WHITE 1-PLY	CT	2400	25190	$ 29.99	
Facilities Paper	2	457828	SCOTT HAND TOWELS MULTI-FOLD	CT	4000	01804	$ 35.08	
Facilities Paper	3	819240	TOWELS 1-PLY 175 SHEETS/SLEEVE	CT	4375	01980	$ 29.42	
Facilities Paper	4	674227	MULTI-FOLD HAND TOWELS	CT	1200	02046	$ 30.83	
Facilities Paper	5	491292	TOWEL CFOLD 2400/CT WE	CT	2400	20603	$ 28.99	
Facilities Paper	6	579939	KC SCOT 2-PLY TP 80RL 550SH	CT	80	04460	$ 60.91	
Facilities Paper	7	761920	TISSUE 2PLY BATH JMBRL WE 8PK	CT	8	12798	$ 35.73	
Facilities Paper	8	580823	KLEENEX COTTENELLE CONVENIENC	CT	20	13135	$ 20.99	
Facilities Paper	9	579940	EMB.PREM TOILET PAPER 20 ROLLS	CT	20	13607	$ 16.19	
Facilities Paper	10	680181	TOWEL C FOLD 17900151	CT	2400	01510	$ 56.79	
Facilities Paper	11	828074	ANGEL SFT ULT 2PLY BATH TISSUE	CT	60	16560	$ 49.95	
Facilities Paper	12	787361	ANGELSOFT WISESIZE BATHTISSUE	CT	20	16620	$ 19.63	
Facilities Paper	13	616044	ANGEL SOFT DISP CS BATH TISSUE	CT	40	16840/16640	$ 29.44	
Facilities Paper	14	503396	ANGEL SOFT TOILET TISSUE	CT	80	16880	$ 55.00	
Facilities Paper	15	579696	KLEENEX COTTENELLE BATH TISSU	CT	60	17713	$ 56.65	

Facilities Paper	16	582962	PREFERENCE BATH TISSUE	CT	80	18280/01	$ 70.99	
Facilities Paper	17	849636	ENVISION EMBOSSED BATHROOM TIS	CT	40	19841/01	$ 33.79	
Facilities Paper	18	808343	PAPER TOWEL MULTIFOLD 250/PK	CT	4000	GEP20204	$ 23.53	
Facilities Paper	19	807087	PPR TOWEL C-FOLD 2400 12/CT	CT	2400	GEP20241	$ 34.49	
Facilities Paper	20	491297	TOWEL SNGLFLD 4000/CT WE	CT	4000	20904	$ 47.99	
Facilities Paper	21	514510	TOWELS MULTIFOLD PREF ULT 2PLY	CT	2000	21000	$ 23.40	
Facilities Paper	22	365378	BRIGHTON PROF FACIAL TISSUE	PK	6	21826/33603	$ 4.44	
Facilities Paper	23	695937	KLEENEX FACETISU 95SHT 36BX/CS	CT	36	21269	$142.49	
Facilities Paper	24	826830	TISSUE FACIAL BOUTIQ 6/PK	PK	6	21271	$ 9.35	
Facilities Paper	25	819331	NATURALS BOUTIQUE* FACAIL TISS	CT	36	21272	$ 66.19	
Facilities Paper	26	808298	TISSUE FACIAL KLEENEX 2PLY	CT	36	21400CT	$ 39.70	
Facilities Paper	27	819333	NATURALS FACIAL TISSUE	CT	48	21601	$ 79.89	
Facilities Paper	28	491294	TOWEL CFOLD PREF1440CT WE	CT	1440	23000	$ 28.05	
Facilities Paper	29	491296	TOWEL MULTIFLD 4000/CT NL	CT	4000	23304	$ 19.75	
Facilities Paper	30	332948	KLEENEX ANTIVIRAL TISSUE 27/CT	CT	27	25836	$ 46.53	
Facilities Paper	31	498872	TOWEL NON-PERF 350 RL NL	CT	12	26401	$ 55.29	
Facilities Paper	32	438373	TOWEL PAPER CENTER PULL WE	CT	6	28124	$ 42.98	
Facilities Paper	33	603985	TISSUE-FACIAL RECY WE	CT	30	2930-30	$ 21.65	
Facilities Paper	34	821156	PPR TOWEL BIG FOLD 10.25X11 WE	CT	2200	GEP33587	$ 9.37	
Facilities Paper	35	365377	BRIGHTON PROF BT 96 RL	CT	96	BPR26212/410019	$ 42.56	
Facilities Paper	36	864397	TOWEL CFOLD 12/200 WH	CT	2400	BWK6220	$ 27.59	
Facilities Paper	37	866666	SCOTT RAGS IN A BOX 200CT	BX	200	75260	$ 10.29	

Category	Item # by Category	Staples SKU	Staples Desc	Unit	Unit Qty	Mfg Number	Staples Price	
Technology Products	201	857842	TARGUS DEFCON CL CABLE LOCK	EA	1	PA410U1	$ 23.09	
Technology Products	202	410652	TRIPPLITETLP604 SURGEPROTECTOR	EA	1	TRPTLP604	$ 12.24	
Technology Products	203	740306	TRIPPLITE 7OUTLET SURGE	EA	1	TLP712B	$ 24.99	
Technology Products	204	333666	3M SPRAY DESK CLEANER	EA	1	573	$ 5.07	
Technology Products	205	648616	3M DISINFCT DESK & OFFICE WIPE	PK	25	CL564	$ 4.52	
Technology Products	206	1138381	ENTERPRISE 500GB	EA	1	KQ4378	$ 200.29	
Technology Products	207	YW5084	KINGSTON 4GB DT4000 G2 256 AES FIPS	EA	1	YW5084	$ 34.40	
Technology Products	208	1138448	ENTERPRISE 500GB	EA	1	KQ4379	$ 227.39	
Technology Products	209	1136556	ENTERPRISE 2TB	EA	1	QR0515	$ 299.79	
Technology Products	210	NA3018	DATALOCKER ENTERPRISE 128GB ENCF	EA	1	NA3018	$ 359.60	
Technology Products	211	NA3019	DATALOCKER ENTERPRISE 256 GB ENC	EA	1	NA3019	$ 456.80	
Technology Products	212	1P3178	KANGURU DEFENDER 3000 8GB 140-2 LE	EA	1	1P3178	$ 85.04	
Technology Products	213	1P3179	KANGURU DEFENDER 3000 16GB FIPS 14	EA	1	1P3179	$ 113.20	
Technology Products	214	1P3180	KANGURU DEFENDER3000 32GB FIPS 14	EA	1	1P3180	$ 161.10	
Technology Products	215	344118	PLATRONICS CS540 WIRELESS HDSET	EA	1	344118	$ 192.00	add
Toner OEM (except Hewlett Packard)	1	747556	XEROX 106R01373 BLACK TONER	EA	1	106R01373	$ 104.99	
Toner OEM (except Hewlett Packard)	2	680882	XEROX 113R00722 BLACK TONER	EA	1	113R00722	$ 124.99	
Toner OEM (except Hewlett Packard)	3	640456	LEXMARK 12015SA BLACK TONER	EA	1	12015SA	$ 77.05	
Toner OEM (except Hewlett Packard)	4	506801	LEXMARK E321 6K PREBATE TONER	EA	1	12A7405	$ 92.03	
Toner OEM (except Hewlett Packard)	5	513031	12A7462 TONER CARTRIDGE HY	EA	1	12A7462	$ 231.11	
Toner OEM (except Hewlett Packard)	6	516646	CARTRIDGE EXTRAHY PREBATE	EA	1	12A7465	$ 249.40	
Toner OEM (except Hewlett Packard)	7	730039	CANON PGI-35 BLACK INK	EA	1	1509B002	$ 10.49	
Toner OEM (except Hewlett Packard)	8	810131	CANON PGI35/CLI-36 2 BLK/1CLR	PK	3	1509B007	$ 43.99	
Toner OEM (except Hewlett Packard)	9	887359	CANON 128 BLACK TONER	EA	1	3500B001AA	$ 77.52	
Toner OEM (except Hewlett Packard)	10	766225	RICOH BLACK TONER CARTRIDGE	EA	1	U34709	$ 69.99	
Toner OEM (except Hewlett Packard)	11	480695	RICOH 406344 BLK HY TONER CART	EA	1	406344	$ 87.49	
Toner OEM (except Hewlett Packard)	12	104193	RICOH C310A (406345) TONER CYA	EA	1	406345	$ 106.99	
Toner OEM (except Hewlett Packard)	13	104191	RICOH C310A (406346) TONER MAG	EA	1	406346	$ 106.99	
Toner OEM (except Hewlett Packard)	14	104190	RICOH C310A (406347) TONER YEL	EA	1	406347	$ 106.99	
Toner OEM (except Hewlett Packard)	15	332847	RICOH 406465 BLK TONER HY	EA	1	406465	$ 111.50	
Toner OEM (except Hewlett Packard)	16	480696	RICOH 406475 BK HY TONER CART	EA	1	406475	$ 130.99	
Toner OEM (except Hewlett Packard)	17	480703	RICOH 406476 CN HY TONR CART	EA	1	406476	$ 169.99	
Toner OEM (except Hewlett Packard)	18	480704	RICOH 406477 MG HY TONER CART	EA	1	406477	$ 169.99	
Toner OEM (except Hewlett Packard)	19	108524	RICOH SP5200A TONER BLACK	EA	1	406683	$ 156.79	
Toner OEM (except Hewlett Packard)	20	140438	RICOH 406989 TNR CART BLK HY	EA	1	406989	$ 129.99	
Toner OEM (except Hewlett Packard)	21	816800	TONER CTRG SP4100N RICOH BLACK	EA	1	RIC406997	$ 202.79	
Toner OEM (except Hewlett Packard)	22	516501	TONER FAX RICOCH 3310L	EA	1	430347	$ 99.99	
Toner OEM (except Hewlett Packard)	23	117439	LEXMARK 521H HY RETURN TON BLK	EA	1	52D1H00	$ 285.59	
Toner OEM (except Hewlett Packard)	24	614567	TONER LASER HI YLD RET PRGM T6	EA	1	64015HA	$ 231.18	
Toner OEM (except Hewlett Packard)	25	614573	TONER LASER T640 RET PRGM CART	EA	1	64015SA	$ 91.99	
Toner OEM (except Hewlett Packard)	26	117167	CANON CLI-251 YELLOW INK TANK	EA	1	6516B001	$ 11.99	
Toner OEM (except Hewlett Packard)	27	117450	LEXMARK 701HC HY RETURN CYAN	EA	1	70C1HC0	$ 107.53	
Toner OEM (except Hewlett Packard)	28	117463	LEXMARK 701HK HY RETURN BLACK	EA	1	70C1HK0	$ 79.67	
Toner OEM (except Hewlett Packard)	29	117449	LEXMARK 701HM HY RETURN MAGENT	EA	1	70C1HM0	$ 107.53	
Toner OEM (except Hewlett Packard)	30	117464	LEXMARK 701HY HY RETURN YELLOW	EA	1	70C1HY0	$ 107.53	

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. 071B6600073

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Staples Contract & Commercial Inc.	Roberta Delo	roberta.delo@staples.com
500 Staples Drive	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
Framingham, MA 01702	517-204-0339	0816

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	Varies by Agency			
CONTRACT ADMINISTRATOR	DTMB Procurement	Valerie Hiltz	517-284-7026	hiltzv@michigan.gov

CONTRACT SUMMARY

DESCRIPTION:

Office Supplies, Inks &Toner and Paper – Statewide and MiDEAL Partners

INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
13 Months	April 25, 2016	May 31, 2017	2, 1-Year
PAYMENT TERMS	**F.O.B.**	**SHIPPED TO**	
Net 45	Destination	Per Authorizing Document	

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

MINIMUM DELIVERY REQUIREMENTS

None

MISCELLANEOUS INFORMATION

THIS CONTRACT IS EXTENDED TO MiDEAL Members and State of Michigan Employees.

This Contract is entered into under the National Purchasing Partners (NPP) Member Agreement resulting from a competitive solicitation conducted by the League of Oregon Cities (RFP 525).

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION	$34,000,000.00

THIS IS NOT AN ORDER: Orders for delivery will be placed directly by the State Agency per Terms and Conditions of this contract.

For the Contractor:

_____ _____

Thomas W. Heisroth,
Senior Vice-President
Staples Contract & Commercial Inc.

Date

For the State:

_____ _____

Rebecca Cook, Division Director,
DTMB Procurement
State of Michigan

Date

STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Staples Contract & Commercial, Inc. ("**Contractor**"), a Delaware Corporation. This Contract is effective on April 25, 2016 ("**Effective Date**"), and unless terminated, expires on May 31, 2017.

This Contract may be renewed for up to **two (2)** additional **one (1)** 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 **Schedule A – Statement of Work** (the "**Contract Activities**"). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

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

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

   Enterprise IT Security Policy and Procedures:
   http://www.michigan.gov/documents/dmb/1210.32.pdf (last revised June 21, 2012)
   http://www.michigan.gov/documents/dmb/1325_193160_7.pdf (last revised March 21, 2012)
   http://www.michigan.gov/documents/dmb/1335_193161_7.pdf (last revised March 21, 2012)
   http://www.michigan.gov/documents/dmb/1340_193162_7.pdf; (last revised March 21, 2012)

   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:
Valerie Hiltz Constitution Hall 525 W. Allegan, 1st Floor N.E. Lansing, MI 48909-7526 hiltzv@michigan.gov 517-284-7026	Roberta Delo 17187 N. Laurel Park Drive, Suite 220 Livonia, MI 48152 roberta.delo@staples.com 517-204-0339

3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a "**Contract Administrator**"):

State:	Contractor:
Valerie Hiltz Constitution Hall 525 W. Allegan, 1st Floor N.E. Lansing, MI 48909-7526 hiltzv@michigan.gov 517-284-7026	Renee Bisby 17187 N. Laurel Park Drive, Suite 220 Livonia, MI 48152 renee.bisby@staples.com 586-945-6561

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:
Each agency will have a Program Manager, or their assigned, authorized to be the main contract with regard to this contract for their Agency	Roberta Delo 17187 N. Laurel Park Drive, Suite 220 Livonia, MI 48152 roberta.delo@staples.com 517-204-0339

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

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

Required Limits	Additional Requirements
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 $2,000,000 Products/Completed Operations	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
Umbrella or Excess Liability Insurance	
Minimal Limits: $5,000,000 General Aggregate	Policy shall follow the form of the underlying primary policy

Automobile Liability Insurance	
Minimal Limits: $1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
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.	

When the State implements the system (SIGMA) in 2017, the Contractor will work with the State to migrate all electronic catalog and online ordering functions to the State's E-Procurement system. At such time the following insurance will be required in addition to the standard insurance requirements:

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.

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 15 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. **Administrative Fee and Reporting.** The Contractor must pay an administrative fee on all Net Sales (State and MiDEAL members) transacted under this Contract. The administrative fee equals six percent (6%) of the total Net Sales. As used herein, "Net Sales" shall mean the gross sales price of the products purchased under this Contract, less any rebates actually paid, discounts and allowances actually taken, rejections and returns to the extent credit is given or paid, and also excluding purchases made via (i) staples.com, or (ii) any Staples retail channel without a convenience and/or registered procurement card.

The administrative fee is remitted as follows:

a. To the State:
The administrative fee equals six percent (6%) of the State's total Net Sales. In addition, the Contractor must also remit to the State three percent (3%) of the total MiDeal Members Net Sales. 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.

b. The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter. To the MiDEAL Members:
The administrative fee remitted to the MiDEAL members equals three percent (3%) of the total MiDeal Members' Net Sales. The Contractor must remit to the MiDeal Member three percent (3%) of the MiDeal Member's Net Sales. Administrative fee payments must be made by check payable directly to the MiDeal Member and mailed to their provided address.

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 the MiDeal Member.

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.

a. 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.

b. This contract is also extended to State of Michigan employees as outlined in subsection e.

c. As extended, Contractor must supply all Contract Activities at the established Contract prices and terms.

d. Contractor must submit invoices to, and receive payment from, MiDEAL members on a direct and individual basis.

e. State Employee Purchases
The Contractor shall allow State employees to purchase from this Contract utilizing State pricing. The Contractor will supply Deliverable(s) to State employees on a direct and individual basis. No administrative fees will be imposed on employee purchases. Purchases may be made in the following manner:

1. State employees may order from the Contractor's website, StaplesAdvantage.com, using their registered personal credit card. There is a $50 minimum order required for State employee purchases made in this manner.

2. State employees may make purchases at any one of the retail outlets by providing their registered personal credit card although the actual purchase may either be applied to the card or paid in cash.

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.

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. Third parties used in connection with delivery of products shall not be considered "subcontractors" hereunder.

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

12. **Reserved.**

13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes. Notwithstanding the foregoing, the State acknowledges that it is aware of a pending transaction with the Office Depot, Inc. and agrees that Contractor will do its best to inform the State of the transaction closing, which may be less than 90 days prior to such closing date.

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

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A, Statement of Work, Section 5.2 Authorizing Documents.

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

Within 15 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 deficient Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

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

18. **Risk of Loss and Title.** Title and risk of loss or damage to the products remains with Contractor until conforming products are delivered to the State. Contractor is responsible for filing, processing, and collecting all damage claims incurred prior to delivery and in transit. The State will record and report to Contractor any evidence of visible damage within 3 business days. If the State rejects the products, Contractor must remove them from the premises within 20 calendar days after notification of rejection. Rejected products not removed by Contractor within 20 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 products.

19. **Warranty Period**. The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Schedule 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 Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

    The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at http://www.michigan.gov/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 provided that Contractor has not issued credit for such amounts in either of two invoices issued to the State after the parties agreed that credit is owed to the State. The State shall provide ten (10) days' prior written notice to Contractor prior to affecting its set-off rights described herein.

21. **Liquidated Damages** Liquidated damages, if applicable, will be assessed as described in Schedule A.

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

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

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

    The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the effective 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 provided the re-procurement costs are not in excess of 50% more than the prices for the Contract Activities.

    Termination by Contractor. If the State breaches a material provision of this Contract, then the Contractor will provide the State with written notice of the breach and a time period (not less than thirty (30) calendar days) to cure the breach. The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the material breach within the time period specified in a written notice of breach.

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 shall be provided to Contractor at least thirty (30) days before the effective date of termination and 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 180 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 third party 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.** Neither the Contractor nor the State is liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; or to court costs or attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

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 that will materially impact the Contractors ability to perform the Contract Activities, 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. **State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.

31. **Reserved**

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 promptly 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 upon written request, must 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. Notwithstanding anything herein to the contrary, Contractor shall have the right to retain copies of non-State Data Confidential Information, and any summaries, analyses, notes, or extracts prepared by Contractor which are based on or contain portions of such Confidential Information to the extent necessary to evidence performance of the Services, provided that Contractor retains such copies in accordance with its confidentiality obligations hereunder.

33. **Reserved**

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 this 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 no less than 30 calendar days of providing written 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 signatory has the authority to enter into this Contract; (f) 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 (g) 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. **Reserved**

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

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

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

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

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

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

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

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

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

50. **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) first, any Contract Amendments; (b) second, this Contract, excluding its Schedules, Attachments; (c) third, the Schedules and Attachments to this Contract as of the Effective Date; (d) fourth, the Purchase Order, and (e) fifth, the NPP Member and Master Agreements.

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

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

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

54. **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**").

STATE OF MICHIGAN
Contract No. 071B6600073
Office Supplies, Inks &Toner and Paper- Statewide and MiDeal Partners

SCHEDULE A
STATEMENT OF WORK
CONTRACT ACTIVITIES

SCOPE
This Contract is established for the purpose of procurement of Office Supplies, Inks &Toners and Copy Paper for the State and MiDEAL members and State of Michigan employees. This Contract is for the statewide use (border to border).

REQUIREMENTS
The Contractor will work in cooperation with the State to furnish quality products at the lowest price available (as described in Schedule B, Pricing). The Contractor is responsible for warehousing, data collection, reporting and distribution of office supplies to State agencies, MiDEAL members and State of Michigan employees.

1. General Requirements
1.1. Deliverables
The Contractor must provide the following Deliverable(s):

The Contractor will be required to deliver to all State agencies and MiDEAL members located in the state of Michigan (border to border).

Contract items are listed in the following 27 categories (some restrictions will apply). Revisions to this list during the contract term shall be mutually agreed upon by the State and Contractor:

Category #	Category
1	Binders & Binding Systems
2	Calendars/ Dated Goods
3	Converted paper Product
4	Copy Paper
5	Facilities Breakroom
6	Facilities Chemical
7	Facilities Equipment
8	Facilities Liners
9	Facilities Paper
10	Facilities Soap
11	Facilities Supplies
12	Filing & Record Storage
13	Inkjet Supplies- OEM
14	Inkjet Supplies- Remanufactured
15	Labels and Mailing Supplies
16	Miscellaneous Office Products
17	Office Accessories
18	Pens, Pencils & Correction
19	School Art Supplies
20	School Paper
21	School Supplies
22	Specialty Paper Products
23	Technology Products
24	Toner- OEM (Hewlett Packard Only)
25	Toner- OEM (Except Hewlett Packard)
26	Toner- Remanufactured
27	Furniture

The item listing and pricing for each category can be found in Schedule B – Pricing.

The Contractor may offer alternate products meeting or exceeding original specifications at a similar or a lower cost to be approved by the State. A proposed alternate must clearly describe all variances from the specifications and must include descriptive literature that contains complete specifications, if available.

1.2. Warranties
Other than as expressly set forth in this Contract, any warranty with respect to the Products must come from the manufacturer. Contractor will pass through to the State any applicable manufacturer warranties, to the extent transferable and provide documentation at time of delivery as well as making the documents available for viewing on line.

a. Each of the Contractor's manufacturing partners provides their own warranties and will, ultimately, be responsible for defective products.

b. The Contractor will pass through to the State of Michigan any applicable manufacturer OEM warranties, to the extent transferable and provide documentation upon request.

c. Should a State of Michigan end-user encounter a warranty/return issue, the product may be returned to the Contractor for full credit or a replacement product, and the Contractor will return the product to the manufacturer.

The State may report any product or warranty issues by contacting Contractor's Customer Service or the Strategic Account Leader assigned to the State. Contractor will work with the OEM to remedy the warranty claim on the State's behalf up to and including return for full credit, replacement of the defective item or repair of the defective item as dictated by the applicable warranty.

1.3. Recall Requirements and Procedures
The Contractor will advise the State's Contract Administrator via e-mail of any product recalls as they become aware of any recall notifications within 10 days. The Contractor will work with the State to remedy the recalled products in accordance with the OEM's recall procedures.

1.4. Quality Assurance Program
Contractor's quality approach includes the following elements:

a. The Contractor will have a customer satisfaction team responsible for measuring and improving the customer experience. Any customer satisfaction polling or surveys to State agencies or Extender Purchasing Program participants must be reviewed and approved by the Contract Administrator before they are conducted, the results of which will be made available to the Contract Administrator upon request.

b. Comprehensive data collection and reporting on all customer shipments, which results in visibility of every order from entry through delivery which will be available to the Contract Administrator upon request.

1.5. Incentives:

a. The contractor will coordinate with Hewlett Packard in the creation, maintenance and updating of HP Big Deal pricing.

b. Contractor may pass through any OEM special pricing, incentives, discounts or rebates.

2. Service Levels
2.1. Ordering

a. Minimum Order
There is no minimum order requirement. However, because order size and order frequency contribute significant costs to customers' supply programs, the Contractor will work with the State to communicate ordering "best practices" to end users. This includes conducting education campaigns to encourage end users to consolidate their supply needs to minimize small, inefficient orders, reduce delivery trips and save the State order processing costs.

b. Orders for Delivery
Will be issued directly to the Contractor by various State agencies and MiDEAL members. These entities will be invoiced separately by the Contractor and responsible for payment to the Contractor. Contractor reserves the right to request separate agreements to be entered into between Contractor and MiDEAL members.

2.2. Time Frames
Deliveries shall be shipped within one (1) business day for all telephone and fax orders received by 4:00 p.m except special order or backordered products. Michigan time and internet orders received by 5:00 p.m. Michigan time, unless otherwise specified for specific category or item. All deliveries to the Upper Peninsula locations will be within two (2) business days. The receipt of order date is governed in the same manner as notices sent under Section 2. Notices, of the Standard Terms and Conditions.

Emergency purchases can be made at any of the Contractor's 39 retail locations in Michigan and receive contract pricing at the register using their registered P-Card or Staples Convenience Card.

2.3 Delivery
Unless specified otherwise below, delivery is governed by Section 17, Delivery, in Standard Terms and Conditions. Prices are F.O.B. Destination, within Government Premises" with transportation charges prepaid on all orders.

Standard Delivery: Contractor shall use commercially reasonable efforts to ship stocked products ordered before 4:00 p.m. EST within one (1) business day to the Lower Peninsula after acceptance of a Purchase Order, except for backordered or special-order products. Contractor shall use commercially reasonable efforts to ship stocked products ordered before 4:00 p.m. local time within two (2) business days to the Upper Peninsula after acceptance of a Purchase Order, except for backordered or special-order products. In the event that a product is backordered or shipment is delayed for any reason, the purchaser will be notified of such delay and Contractor shall use commercially reasonable efforts to deliver the delayed product as promptly as commercially practicable. Contractor will treat any such delayed order as active unless the purchaser contacts Contractor and provides other instructions. Additional freight charges may apply for special delivery, non-standard delivery, rush delivery, or special or custom order products which will be disclosed at the time of the quote or the placement of the order by the purchaser.

Some State employees work from home offices around the State. Orders from these employees shall be delivered to their home office (unless otherwise specified).

2.4. Installation
Installation if required, will be addressed, on a case by case basis, specific to the item.

2.5. Damaged Goods, Defective Merchandise, Returns and Backorders

a. Damaged Freight, Error in Shipment, Defective Items
The Contractor shall pay and arrange for all shipping and handling charges for items returned because of freight damage or error in shipment. Agencies shall be credited the full amount of all items returned. All credits shall be made to the account codes used to purchase the returned items. If the order had multiple account codes, the agency shall instruct the Contractor to which code or codes the credit shall be assigned. The Contractor shall issue credit within seven (7) calendar days once item has been returned to Contractor's in-state distribution warehouse.

b. Credit and Return Policy
Products may be returned to Contractor in accordance with the following policy:
1. The product must be returned to the Contractor with its complete and original packaging intact (original UPC code, packaging materials, instructions, manuals, etc.).
2. General office supplies must be returned within 30 days of receiving the product.
3. Software may only be exchanged or returned unopened, within 30 days of receiving the product
4. Custom products are not returnable unless damaged or defective within 30 days
5. Account will be credited when returned merchandise is received back into inventory.

c. Return Process
To process a return, end-users can call Contractor's Customer Service, or fill out the return request form on Contractor's website, in order to receive an Authorization to Return (ATR) number. The product will then be picked up on the next scheduled delivery day by Contractor's driver, UPS or common carrier.

2.6. Training

a. The Contractor shall provide training to all State users and MiDeal members at the time that they first obtain access to the ordering system through an e-mailed welcome providing links to tutorials and to individual agencies, when necessary, on aspects of ordering, shipping, billing, and receiving throughout the term of the contract. This e-mail welcome will also provide link to the State's intranet.

b. At the request of the Contract Administrator the Contractor shall provide in-service training to agency personnel on products, installation, and product safety issues. This training shall be extended to MiDEAL members.

c. The Contractor shall also provide agency training jointly with the State as needed during the period covered by the Contract at no additional charge. This training shall be extended to MIDEAL members.

d. The Contractor shall provide to the State, prior to the go live date, a FAQ PDF for the State's use on their Intranet.

2.7. Reporting

a. The Contractor must submit the following periodic reports to the State:
   1. Usage reports, to the Contract Administrator, including quantity and dollars for State and MiDEAL members, as requested.

   2. The Contractor must submit reports of purchasing activities to the MiDEAL program coordinator, on a quarterly basis. The Contractor shall utilize the format specified by the MiDEAL Administrator. Reports shall include, at a minimum, an itemized listing of purchasing activities by each State of Michigan agency and MiDEAL member, with the agency name, invoice number, product description, quantity, total value of purchases for each agency, date of purchases, and a grand total of all purchases.

   3. The Contractor must supply electronic files for all account numbers, agency contacts (Administrators all levels), ship to addresses, and authorized purchases upon request up to a quarterly basis.

   4. By the second Friday of every December, the vendor must submit a report of recycled content in commodities sold in that calendar year to the Contract Administrator.

b. The Contractor must submit reports of purchasing activities to MiDEAL members:
On a quarterly basis. Refer to Terms and Conditions Section 7, Administrative Fee and Reporting. The Contractor shall utilize the format specified by the MiDEAL Administrator. Reports shall include, at a minimum, an itemized listing of purchasing activities by each State of Michigan agency and MiDEAL member, with the agency name, invoice number, product description, quantity, total value of purchases for each agency, date of purchases, and a grand total of all purchases.

c. The State reserves the right to request other reports throughout the term of this Contract.

2.8. Meetings
The State or its MiDEAL members may request meetings as it deems appropriate.

3. Staffing
3.1. Contractor Program Manager
The Contractor must appoint a single point of contact, specifically assigned to State of Michigan accounts and another to MiDEAL accounts, that will respond to inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. and who will be directly responsible for the day to day operations of the Contract (the "Contractor Program Manager"). The contractor will name an assigned delegate as back up should the Contractor Program Manager be unavailable.

The Contractor Program Manager is considered Key Personnel, and the Contractor must notify the Contract Administrator at least 60 calendar days before removing or assigning a new Contractor Program Manager.

Contractor's Program Manager or assigned delegate must be available during the following times on all State business days: 7 am to 6 pm EST.

The Contractor may not remove or assign the Contractor Program Manager without the prior consent of the State. Prior consent is not required for reassignment for reasons beyond the Contractor's control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. The State may request a résumé and conduct an interview before approving a change. The State may require a 30 calendar day training period for replacement personnel.

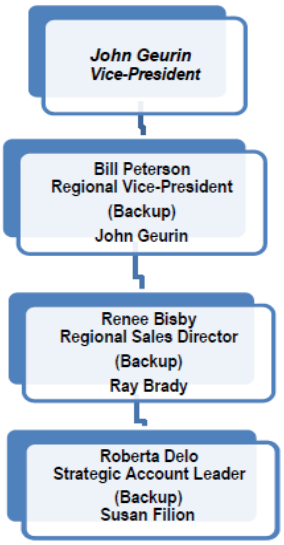
The Contractor must identify the Contractor Program Manager, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

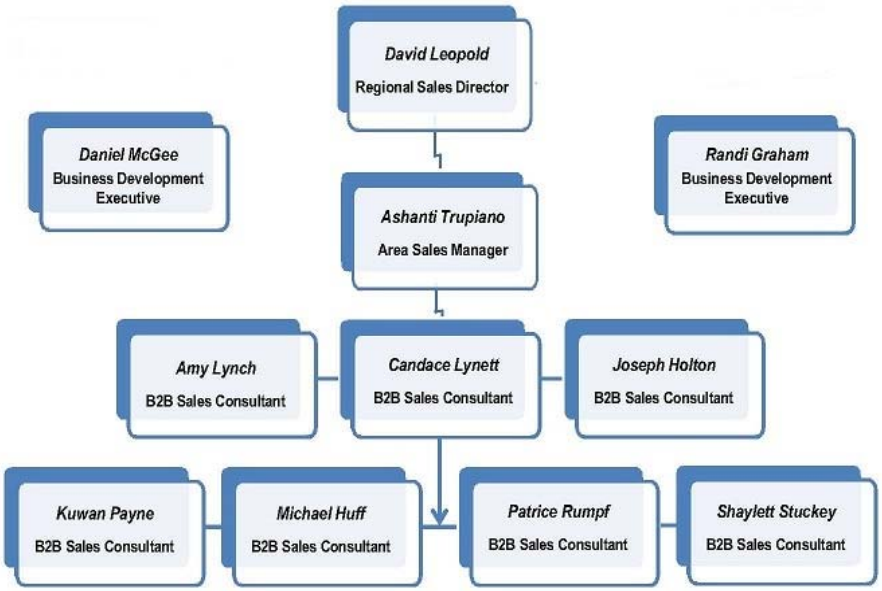
3.2. Non-Key Personnel
The Contractor must notify the Contract Administrator at least 10 calendar days before removing or assigning non-key personnel.

3.3. Organizational Chart

The following chart contains the names and titles of the staff that will be responsible for managing the State's account and the MiDEAL
Accounts.
STATE:

MiDEAL:





3.4. Customer Service Toll-Free Number

Customer Service:
The Contractor shall have dedicated staff available for customer service calls:
Monday through Friday, 7 am to 6 pm EST.

Phone: 888-212-7219
Fax: 888-222-8618
Email: Governmentteam@staples.com

Online Catalogue Technical Support Team
Contractor shall have dedicated staff available for on line web collaboration and technical support via phone:

Monday through Friday, 7:00 a.m. to 6:00 p.m. (EST).
Phone: 1-877-826-7755

3.5. Disclosure of Subcontractors

The Contractor will not be utilizing subcontractors. If in the future the Contractor proposes utilizing a subcontractor the Contractor will provide to the State:

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.
Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

c. A complete description of the Contract Activities that will be performed or provided by the subcontractor.

d. The subcontractor may not start work until approved through a contract change Notice.

For the avoidance of doubt, as used in this Contract, a third party engaged by Contractor to deliver Deliverables to the State or MiDEAL members shall not be considered a "subcontractor."

4. Pricing

a. State Custom Core List
The prices for items listed in the State's Custom Core List are fix prices except as set forth in Section 4.1 below. Core items are listed in the 27 categories and the pricing details are provided in Schedule B - Pricing. These prices may never be more than the item pricing provided in the NPP contract. The Contractor has included the administrative fee, as outlined in Terms and Conditions Section 7, Administrative Fee and Reporting. No price shall exceed NPP Master Contract Prices.

b. Non-Core List
Office supply items not identified in the State Custom Core List provided in Schedule B – Pricing, but otherwise available in annually published Staples Full Line catalog, will be referred to as Non-Core and can be purchased at a discount off List Price (defined in 4(d) below) identified by category in Schedule B- Pricing which reflect the discounts established in the NPP contract. For the avoidance of doubt, any reference in this Contract to a catalog is specifically in reference to Staples' printed, annually published Full Line catalog.

c. Special Order
Cash equivalents (e.g. gift cards, postage, etc.), certain custom and special order, and/or certain net or MAP priced items ("Convenience Assortment items"), not identified on Schedule B – Pricing and items that are not listed in the Contractor's current Staples annually published Full Line catalog will be priced at discounts up to 40% from the then current product manufacturer's List Price (defined below). The Contractor shall include the administrative fee, as outlined in Terms and Conditions Section 7, Administrative Fee and Reporting, in the quoted prices.

d. List Price
"List Price" is defined as the manufacturer's suggested list price and will be provided to the State in an Excel file for all items offered in the current Staples annually published Full Line catalog, NPP Exhibit A-1 Catalog File and as attached to this contract Attachment B, the List Price may only be updated annually. This is the basis on which Non-Core discounts will be made.

1. The Contractor will provide updated Catalog Price List files to the State of Michigan on or after May 31st each calendar year. The Contractor shall include the administrative fee, as outlined in Terms and Conditions Section 7, Administrative Fee and Reporting, in the List prices.
2. The list price files will uploaded to the MiDeal website www.michigan.gov/mideal and replaced as needed at the discretion of DTMB-Procurement.

e. Lowest Available Price
Contractor is able to utilize Best Price Logic for purchases made in its retail stores, which would result in the State receiving the lower of the current retail store price or the current contract price provided that such purchases are paid for with a registered P-Card or a Staples Convenience Card. If a lower priced item is found on Contractor's consumer website (Staples.com), or in the Staples retail store the State is free to purchase the product from that alternate channel in order to obtain the lower price. Purchases made on Staples.com are not subject to the administrative fee in Terms and Conditions Section 7.

f. Contract Pricing Review
Contractor will on a quarterly basis review spend trends with the State to ascertain if any items should be added to the State's Custom Core List and/ or if any items should be removed from the Custom Core List to ensure lowest pricing for the benefit of the State.

4.1. Price Term

a. The State's Custom Core List prices will be firm through May 31, 2018 (exclusive of copy paper, toner and ink) and thereafter may be adjusted every 365 days. (Except as noted in 4.2.b). Adjustments may be requested, in writing, by either party and price increases will take effect no earlier than the Contract

Change Notice (CCN) is processed incorporating the adjustments, is issued by DTMB Procurement. Price decreases may be offered at any time and shall be applied immediately and automatically by the Contractor.

b. Non-Core items will be firm through May 31, 2017 (exclusive of copy paper, toner, and ink) and thereafter may be adjusted every 365 days (except as noted in 4.2.b). The List Prices for copy paper, toner and ink may be adjusted every six months.

c. The prices for copy paper, toner and ink will be held firm through May 31, 2017 and thereafter may be adjusted every 182 days (six months) with thirty days' notice (except as noted in 4.2.b). Adjustments may be requested, in writing, by either party and price increases will take effect no earlier than the Contract Change Notice (CCN) is processed incorporating the adjustments, is issued by DTMB Procurement. Price decreases may be offered at any time and shall be applied immediately and automatically by the Contractor.

4.2. Price Changes

a. Adjustments the State's Custom Core List and NPP List Price, will be based on changes in actual Contractor costs, but increases shall not exceed 3% on total aggregate during any given adjustment period. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

b. In the event of Force Majeure as described in Terms and Conditions Section 46, pricing changes may be considered, with the provision of acceptable substantiation, prior to expiration of the firm dates.

c. Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

d. The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period. Any changes to pricing must be implemented through an issuance by DTMB-Procurement of a Contract Change Notice (which will be executed by the Parties as soon as practicable). All Contract Change Notices will include a new item listing (for all categories: paper, toner, general office supplies) which will replace all prior versions of the item listing. The Change Notices will clearly describe which price categories have not changed and which categories have been modified.

e. No price changes shall exceed the price listed in the NPP Master Contract Agreement.

4.3. Pricing Audit

a. Invoicing and Payment

This Contract will be audited quarterly, at the State's discretion, via electronic invoicing documentation provided to the State by the Contractor. If audit findings show that incorrect prices were invoiced, the State will contact the Contractor to remedy the situation and issue refunds. Pricing will be immediately corrected and incorrect pricing may be considered a breach of contract and may lead to cancellation of this Contract.

b. Retention of Records

The Contractor must retain all financial and accounting records related to this Contract during the Term and for a period of one year after the Contractor performs any work under this Contract (Audit Period).

If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

The State expects Contractor to conduct audits continuously throughout the term of this Contract, or on a quarterly basis, during the months of July, October, January, and April.

5. Ordering

5.1. Ordering

Orders for delivery of commodities and/or services may be issued directly by the State Agencies through an Authorizing Document. The Contractor is not authorized to begin performance until receipt of this document as outlined in Schedule A, Statement of Work, Section 5.2 Authorizing Documents.

The Contractor must be able to receive orders by any of the following methods: electronically via online Website tailored to the State's specific pricing and selections, phone, phone app, facsimile transmission, procurement card, written order, or in stores.

At the request of DTMB-Procurement, the Contractor shall have the ability to block certain non-contract items from being ordered and a message informing/redirecting the purchase shall be present. General exclusions include, but are not limited to, some office furniture, computers and computer accessories, file cabinets, disposable paper products in large volumes, trash can liners, janitorial supplies in large volume orders, photocopy machines and supplies, printers, surge protectors and telephones and accessories. These items are currently available through other State contracts.

a. Online Catalog/Ordering System

1. Contractor's online catalog/ordering system shall be available 24 hours a day, 7 days a week, with the exception of scheduled maintenance. Payments for online orders can be made with a procurement card and order acknowledgements are provided electronically to customers. Contractor's online catalog/ordering system identifies State of Michigan contract items. Online customers are able to view product availability before placing orders and will automatically notify online customers when less expensive alternate is available.

2. Website allows designated customer administrators to set up, add, and delete end users, with permissions and restrictions, approval paths, varying levels of authorization of purchases, etc. independently, without having to contact customer service or Contractor's sales representative.

3. The Contractor shall be willing and have the capacity to work with third-party providers of Electronic Data Interchange (EDI) services which have been chosen by the State. The Contractor shall be willing, at no additional charge to the State or to the EDI provider, to transmit text and image catalog information to the State's provider of EDI services.

4. The State does not currently have an E-Procurement system, however, the State is in the process of implementing a new financial system with an E-Procurement module. When the State implements the system (SIGMA) in 2017, the Contractor will be able to migrate all electronic catalog and online ordering functions to the State's E-Procurement system within 60 days of notice.

b. Online Catalog Technical Support

Contractor shall have sufficient help desk resources to provide technical assistance to the State, and MiDeal members promptly.

Contractor will provide online Customer Service support which enables real-time, online interaction with Customer Service through instant messaging, live log-on assistance, web collaboration/screen sharing and call-back requests.

c. Phone and Fax Orders

The Contractor shall maintain multiple contract customer support centers and an additional support center for retail and centralized functions. All of the Contractor's contract call centers overlap support capabilities and have redundant data and power entry. Contractor will reroute calls in the event of a phone outage or other emergency

Customer Service (Orders) Dedicated to State of Michigan and MiDEAL member Accounts (Toll-Free):
Phone: 877-826-7755
Fax: 877-609-7770
E-mail: support@staplesadvantage.com

The Contractor's normal business hours for receiving orders and providing customer service are: Monday through Friday, 8:00 a.m. to 8:00 p.m. (EST).

d. Retail Network
Contractor has a retail network within the State of Michigan (approx. 39 retail locations). Purchases can be made at any of the Contractor's 39 retail locations and receive contract pricing at the register. Contractor will provide authorized users with a convenience card or registered procurement card that tie customers to their contract pricing and the State's tax exempt status. Contractor maintains approximately 40% of their contract catalog SKUs in their retail locations.

e. Fill Rate
The Contractor must maintain a monthly statewide average Fill Rate of 98%. If the fill rate falls below 98% for three consecutive months and the Contractor fails to provide an explanation for the reduction which is satisfactory to the State, the State may cancel the contract with a 30-day written notice to the Contractor.

f. Backorders
Customers shall be notified at time of order placement of shipment delays, partial shipments and back orders. In the event that the Contractor is temporarily out of stock on an item, the Contractor will first notify the end user in one of the following ways:

1. Contractor's Internet ordering system provides in-stock/backorder status.
2. Customers phoning in orders will be notified of a backorder at the time of order placement.
3. A backordered item will be annotated on a FaxBack or e-mail order confirmation, and
4. Annotated on the packing list that the end-user receives with the order. The packing list will automatically provide a systemically generated due date (this due date is based on average vendor lead-time).

The Contractor will then work to fill the backorder. If the Contractor's system is unable to fill a line, the Contractor's local purchasing group will source the backordered item. The order is then placed to ship from the nearest, quickest source. In the event the back order cannot be satisfied within 10 days, or the time required by the customer, the State is free to purchase the item elsewhere.

Backordered items will not be billed for until the item has been delivered.

g. Discontinued/ Unavailable Items
If an item is discontinued, or has an unusual lead-time, the customer will be notified of this at the time of the order, or if the order is faxed, the Customer will be called the same day and given a choice of canceling the order/item, or selecting an alternate.

h. Product Substitution
Product substitution is **not allowable unless written approval is received from the requesting agency.** Pricing for the substituted product cannot exceed the contract price for the item. Auto substitution without customer written approval will be considered Breach of Contract.

i. Special Orders
Customers may purchase items that are not normally stocked. Special order items are items not stocked by Staples or their wholesale partners. Special order items can be placed on line with detailed description of item, or telephoned to customer service. Lead time for special order items range from 3-14 days depending on the manufacturer's lead time. Special orders are processed within 24 hours of receipt.

Special order items are not identified on Attachment A - Pricing or listed in the Staples Online Catalog. These items will be priced at discounts up to 40% from the then current product manufacturer's list price.

j. Emergency Preparedness/ Disaster Recovery

1. Emergency Preparedness
As a first responder, in the event of an emergency or disaster, the State should be served before other customers.
The State reserves the right to purchase from any category Contractor can provide during a declared emergency or disaster.

In the event of an Emergency the Contractor's Program Manager shall be the contact and shall provide to the Contract Administrator a phone number where they can be reached anytime.

2. Disaster Recovery

I. The Contractor has created a Disaster Recovery Plan that enables the business to continue services in the event that problems are experienced with Contractor's computer systems, telecommunication systems, or warehouse/shipping capabilities. These plans have been designed and maintained to ensure timely recovery from a disaster.
II. Contractor's Disaster Recovery (DR) plan is based on a process of assigning an appropriate DR Tier Definition to each business process based on criticality and the maximum tolerable outages that can be incurred. Contractor maintains two data centers; one is for production and the other is for disaster recovery. Tier I applications are protected by Multi Site High Availability (MSHA) using the DR site as a backup. Tier I applications such as StaplesAdvantage.com® can be recovered within four hours of an outage. All files are replicated to the DR site for rapid recovery.
III. Contractor also maintains an offsite "hot site" contract with SunGard Recovery Services to resume business functions categorized as Tier III (48 – 72 hour recoverability) in the event of a disaster.
IV. The network in the corporate data centers includes multiple, separate, completely redundant, high-speed connections to the Internet, providing a higher degree of network availability than most commercial hosting providers. Both facilities are supported by Uninterruptible Power Supply (UPS) systems. These systems provide conditioned power and are capable of supporting the data center for 15 minutes each (under full load) in the event of power loss. This is more than enough time for diesel generators to automatically start and carry the data center load for an indefinite period.
V. Contractor's Disaster Recovery plan is tested twice a year to ensure minimal business impact in the event of a real disaster.

k. Future ERP Integration
The State is currently engaged in a project to implement the new State-wide Integrated Governmental Management Applications (SIGMA) ERP System, which is based on the CGI Advantage suite of applications. This is expected to replace ITRAC and other legacy State systems and become the new requisition and procurement system for the State enterprise. Migration to SIGMA is tentatively targeted for 2017.
Contractor shall, at no cost, work with the State to integrate a round trip or punch-out process that will coordinate with or provide similar features and functions as that of the contractor's web-based ordering solution.

5.2 Authorizing Document
The appropriate authorizing document for the Contract will be; a Purchase Order (PO) referencing this Contract (Blanket Purchase Order), online order, phone/fax order, or P-Card Transaction. All documents shall be bound by the terms and conditions contained herein.

5.3 Order Verification
The Contractor must have internal controls, to verify abnormal orders and make commercially reasonable efforts to ensure that only authorized individuals place orders, that non-State public entities are current MiDeal Members www.michigan.gov/mideal, and verification that individuals are state employees via their registered credit card.

6. Delivery
6.1. Delivery Programs
Standard delivery terms are as set forth in Schedule A Statement of Work, Section 2.3 Delivery. Deliveries to all locations in the Lower Peninsula shall be made via a third party carrier. The Upper Peninsula will be serviced by a combination of third party carriers and UPS. There are no quantity limitations. However, large bulk or truckload orders or orders requiring special handling may require additional time for delivery. Same day, emergency orders are available on a limited basis and may require a delivery fee, provided they are not due to the fault of the contractor.

6.2. Packaging and Palletizing
Each order delivered shall be individually packaged and will indicate the ordering agency's name, address and order number. Each order will utilize the box size that is the most appropriate for the quantity of items being shipped. Each package will contain a packing slip. This packing slip shall contain the following information: agency name and address, name and telephone number or the person to whom the order is being delivered, the State's order number, stock number with a brief description of each item, unit of issue, quantity of each item issued, unit price and extended price for each item, date order was received by Contractor, shipping code to identify shipping condition (item temporarily out of stock/will ship late, discontinued item or item temporarily out of stock/please reorder) and total price of the order.

Packaging and containers must meet the current requirements of state and federal law applicable to rail and motor carrier freight classifications, which will permit application of the lowest freight rate.

Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets.

7. Reserved.

8. Invoice and Payment
8.1. Invoice Requirements
All invoices submitted to the State must include: (a) date; (b) purchase order number or on-line transaction order number; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost, if a special order; and (g) total price.

Contractor shall provide monthly invoice statements/ billings electronically to State agencies and have the ability to provide automatic payment processing capability. Some State agencies are centralized and some are decentralized for ordering and payment processes. The Contractor shall be capable of submitting one consolidated invoice to an agency-centralized location or multiple invoices to an agency for each delivery location or payment group (refer to Section 2.2.2 Payment Deadlines).

8.2. Payment Methods
The State will make payment for Contract Activities via EFT, direct voucher or P-Card.

9. Project Plan
Within 10 calendar days of, if not before, the Effective Date, the Contractor will submit a project plan to the Contract Administrator for final approval. The plan must include the project breakdown showing sub-projects, tasks, and resources required for the following:

a. Contractor Transition In Duties
b. Visits with any requesting agency
c. Training webinars or other training events
d. Develop FAQs
e. Electronic PDF catalog with pictures of market basket (and ongoing upkeep)
f. Contractor Transition Out Duties

g. Supply electronic files for all agencies, ship to's, contact personnel

10. Liquidated Damages
Unauthorized Removal of Key Personnel will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, the State may assess liquidated damages against Contractor as specified below.

The State is entitled to collect $1,000 per individual per day for the removal of any Key Personnel without prior approval of the State.

The State is entitled to collect $1,000 per individual per day for an unapproved or untrained key personnel replacement.

Notwithstanding the foregoing, Reassignment or removal of Key Personnel for reasons beyond the Contractor's control, including but not limited to illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause shall not be deemed "unauthorized Removal of Key Personnel" and shall not entitle the State to assess liquidated damages.

11. Additional Requirements
11.1. Environmental and Energy Efficient Products
The Contractor must identify any energy efficient, bio-based, or otherwise environmental friendly products used in the products. Contractor must include any relevant third-party certification, including the verification of a United States department of agriculture certified bio based product label.

11.2. Recycled Content and Recyclability

a. Deliverable(s)
Without compromising performance or quality, the State prefers Deliverable(s) containing higher percentages of recycled materials.

b. Packaging
The State prefers packaging materials that:
1. are made from recycled content that meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard);
2. minimize or eliminate the use of polystyrene and other difficult to recycle materials;
3. minimize or eliminate the use of packaging and containers or, in the alternative, minimize or eliminate the use of non-recyclable packaging and containers;
4. provide for a return program where packaging can be returned to a specific location for recycling; and
5. contain materials that are easily recyclable in Michigan.

11.2. Hazardous Chemical Identification
In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, *et seq.*, as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals, as defined in 40 CFR §370.2, to be delivered or made available. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number.

The Contractor must identify any hazardous chemicals that will be provided under this contract.

11.3. Mercury Content
Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor must explain if it intends to provide products containing mercury, the amount or concentration of mercury, and whether cost competitive alternatives exist. If a cost competitive alternative does exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.

11.4. Brominated Flame Retardants

The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs.

Schedule B

Please see attached Excel document.

Attachment A- NPP Member Agreement

National Purchasing Partners

Member Intergovernmental Cooperative Purchasing Agreement

This Intergovernmental Agreement (Agreement) by and between government entities that execute a Lead Contracting Agency Authorization ("Lead Contracting Agency(ies)") to be supplemented and made a part hereof and participating National Purchasing Partners ("NPP") government entity members ("Participating Agencies") including members of FireRescue GPO and Public Safety GPO, that agree to the terms and conditions of this Agreement. All NPP Lead Contracting Agencies and Participating Agencies shall be considered as "parties" to this agreement.

WHEREAS, upon completion of a formal competitive solicitation and selection process, the Lead Contracting Agencies have entered into Master Price Agreements with one or more Vendors to provide goods and services, often based on national sales volume projections;

WHEREAS, NPP, created by a nonprofit medical center, provides group purchasing marketing and administrative support for governmental entities within the membership. NPP's marketing and administrative services are free to its membership, which includes participating public entities and non-profit institutions throughout the United States and Canada.

WHEREAS, NPP has instituted a cooperative purchasing program under which member Participating Agencies may reciprocally utilize competitively solicited Vendor Contracts through the inclusion of the membership in Lead Contracting Agency bid Solicitation and Master Price Agreements;

WHEREAS, the Master Price Agreements provide that all members of NPP may purchase goods and services on the same terms, conditions and pricing as the Lead Contracting Agency, subject to applicable local and state laws of the Participating Agencies;

WHEREAS, the parties agree to comply with the requirements of the Intergovernmental Cooperation Act as may be applicable to the local and state laws of the Participating Agencies;

WHEREAS, the parties desire to conserve and leverage resources, and to improve the efficiency and economy of the procurement process while reducing solicitation and procurement costs;

WHEREAS, the parties are authorized and eligible to contract with governmental bodies and Vendors to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, the parties desire to contract with Vendors under the terms of the Master Price Agreements open to all Participating Agencies;

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1: LEGAL AUTHORITY

Each Party represents and warrants that it is eligible to participate in this Agreement because it is a local government or non-profit corporation created and operated to provide one or more governmental functions and possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: APPLICABLE LAWS

The procurement of goods and services subject to this Agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules, and regulations that govern each party's procurement policies. It is the responsibility of each party to ensure it has met all applicable solicitation and procurement requirements, both in state law and local policy.

ARTICLE 3: USE OF BID, PROPOSAL OR PRICE AGREEMENT

a. Each party will facilitate the cooperative procurement of goods and services.

b. The procuring party shall be responsible for the ordering of goods and services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring parties harmless from any liability that may arise from action or inaction of the procuring party.

c. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar goods and services outside the scope of the Master Price Agreements and NPP.

d. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.

e. The cooperative use of bids, proposals or price agreements obtained by a party to this Agreement shall be in accordance with the terms and conditions of the bid, proposal or price agreement, except as modified where otherwise allowed or required by applicable law, and does not relieve the party of its other bid requirements under state law or local policies.

ARTICLE 4: PAYMENT OBLIGATIONS

The procuring party will make timely payments to Vendors for goods and services received in accordance with the terms and conditions of the procurement. Payment for goods and services, inspections and acceptance of goods and services ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor shall be resolved in accordance with the law and venue rules of the state of the procuring party.

ARTICLE 5: COMMENCEMENT DATE

This Agreement shall take effect after execution of the "Lead Contracting Agency Endorsement and Authorization" or "Participating Agency Endorsement and Authorization," as applicable.

ARTICLE 6: TERMINATION OF AGREEMENT

This Agreement shall remain in effect until terminated by a party giving 30 days written notice to the Lead Contract Agency.

ARTICLE 7: ENTIRE AGREEMENT

This Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 8: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by all parties, except that any alterations, additions, or deletions of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO OR MORE ORIGINALS BY EXECUTION AND ATTACHMENT OF EACH "LEAD CONTRACTING AGENCY ENDORSEMENT AND AUTHORIZATION" OR "PARTICIPATING AGENCY ENDORSEMENT AND AUTHORIZATION," AS APPLICABLE. ONCE EXECUTED, IT IS THE RESPONSIBILITY OF EACH PARTY TO FILE THIS AGREEMENT WITH THE PROPER AGENCY IF REQUIRED BY LOCAL OR STATE LAW.

LEAD CONTRACTING AGENCY
ENDORSEMENT AND AUTHORIZATION

The undersigned acknowledges, on behalf of League of Oregon Cities (Lead Contracting Agency) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Member Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by Lead Contracting Agencies to Participating Agencies locally, regionally, and nationally through NPP. Copies of Master Price Agreements and any amendments thereto made available by Lead Contracting Agencies will be provided to Participating Agencies and NPP to facilitate use by Participating Agencies.

The undersigned understands that the purchase of goods and services under the provisions of the Member Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agencies.

The undersigned affirms that he/she is an agent of League of Oregon Cities and is duly authorized to sign this Lead Contracting Agency Endorsement and Authorization.

BY: _____ Date: 4.3.14
ITS: _____

Lead Contracting Agency Contact Information:

Contact Person: SUSAN MUIR
Address: 1201 COURT ST. NE SUITE 200
SALEM, OR 97301
Telephone No.: 503.588.6550
Email: smuir@orcities.org

PARTICIPATING AGENCY
Endorsement and Authorization

The undersigned acknowledges, on behalf of The State of Michigan (Participating Agency) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Member Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by Lead Contracting Agencies to Participating Agencies locally, regionally, and nationally through NPP.

The undersigned further acknowledges that the purchase of goods and services under the provisions of the Member Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agency and that neither the Lead Contracting Agency nor NPP shall be held liable for any costs or damages incurred by or as a result of the actions of the Vendor or any other Participating Agency. Upon award of contract, the Vendor shall deal directly with the Participating Agency concerning the placement of orders, disputes, invoicing and payment.

The undersigned affirms that he/she is an agent of the State of Michigan and is duly authorized to sign this Participating Agency Endorsement and Authorization.*

_____ Date:_____

BY: _____

ITS: _____

Participating Agency Contact Information:

Contact Person: _____

Address: _____

_____

_____

Telephone No.:_____

Email:_____

* In addition to execution of this Member Intergovernmental Cooperative Purchasing Agreement, all Participating Agencies must be registered members of NPP and/or FireRescue GPO in order to access NPP competitively bid contracts. Registration is fast and free. Go to www.nppgovernment.com or contact a customer service representative at 1-877-329-8847 or customerservice@nppgovernment.com.

Attachment B – NPP List Price

Please see attached Excel Document