



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 **4**
 to
 Contract Number **071B4300148**

CONTRACTOR	AGILENT TECHNOLOGIES INC
	2850 Centerville Road
	Wilmington, DE 19808
	Dan Poling
	800-227-9770
	dan.poling@agilent.com
	*****8772

STATE	Program Manager	Carol Smith	DEQ
		517-335-9550	
		smithc@Michigan.gov	
	Contract Administrator	Steve Rigg	DTMB
		(517) 284-7043	
		riggs@michigan.gov	

CONTRACT SUMMARY				
GAS CHROMATOGRAPH/MASS SPECTROMETER				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
September 1, 2014	August 31, 2018	3 - 1 Year	August 31, 2018	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45 Days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		August 31, 2018
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,518,528.85	\$312,266.81	\$1,830,795.66		
DESCRIPTION				
Effective October 25, 2016, this Contract is hereby increased by \$312,266.81. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on October 25, 2016.				

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

AGENCY	NAME	PHONE	EMAIL
MDHHS	Kevin Dunn	(517) 335-5096	DunnK3@michigan.gov
LARA	Ann Whitaker	(517) 332-2132	WhitakerA@michigan.gov

FOR THE CONTRACTOR:

AGILENT TECHNOLOGIES INC

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Sharon Walenga-Maynard, Sourcing Director

Name and Title

DTMB Procurement

Agency

Date

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B4300148
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Agilent Technologies, Inc. 2850 Centerville Road Wilmington, DE 19808	Dan Poling	Dan.Poling@Agilent.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	800-227-9770	8772

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DHHS	Kevin Dunn	517-335-5096	DunnK3@michigan.gov
	DEQ	Carol Smith	517-335-9550	SmithC@michigan.gov
	LARA	Ann Whitaker	517-332-2132	WhitakerA@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiago	517-284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Agilent Equipment, Consumables, Maintenance, and Repair - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 1, 2014	August 31, 2018	3, one year	August 31, 2018
PAYMENT TERMS		DELIVERY TIMEFRAME	
45 Days		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,293,528.85		\$225,000.00	\$ 1,518,528.85	

DESCRIPTION: Effective January 26, 2016, the Michigan Department of Health and Human Services (DHHS), is added to this contract and funding is increased by \$225,000.00 to meet the anticipated needs, of the Agency, through the current contract end date. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on January 26, 2016.

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

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B4300148
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Agilent Technologies, Inc., 2850 Centerville Road Wilmington, DE 19808	Dan Poling	Dan.Poling@Agilent.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	800-227-9770	8772

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DEQ LARA	Carol Smith Ann Whitaker	517-335-9550 517-332-2132	smithc@michigan.gov whitakera@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiago	517-284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Agilent Equipment, Consumables, Maintenance, and Repair - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 1, 2014	August 31, 2018	3, one year	August 31, 2018
PAYMENT TERMS		DELIVERY TIMEFRAME	
45 Days		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,200,258.85	\$93,000.00	\$1,293,258.85		

DESCRIPTION: Effective July 23, 2015, Licensing and Regulatory Affairs (LARA) is added to this contract and increased by \$93,000.00 to meet the anticipated needs of LARA through the current contract end date. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B4300148
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Agilent Technologies, Inc. 2850 Centerville Road Wilmington, DE 19808	Dan Poling	Dan.Poling@Agilent.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	800-227-9770	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DEQ	Carol Smith	517-335-9550	smithc@michigan.gov
BUYER	DTMB	Melissa Sambiago	517-284-7016	sambiaiom@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Agilent Equipment, Consumables, Maintenance, and Repair - Statewide			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
9/1/2014	8/31/2018	3 – one year	8/31/2018
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
45 Days	Delivered	30 Days ARO	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
None			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		8/31/2018
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$ 1,013,115.95		\$1,200,528.85		

Effective March 31, 2015, this contract is hereby increased by \$1,013,115.95 to meet the anticipated need of DEQ through the current contract end date. The contract description has been modified to reflect actual contract request of "Equipment, Consumables, and Service/Maintenance". Please note the Contract Administrator has been changed to Melissa Sambiago. All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on March 31, 2015.

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

CONTRACT NO. 071B4300148
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Agilent Technologies, Inc. 2850 Centerville Rd Wilmington DE, 19808	Dan Poling	Dan.poling@agilent.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	800-227-9770	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	MDEQ	Carol Smith	517-335-9550	smithc@michigan.gov
BUYER:	DTMB	Yvon Dufour	517-284-6996	dufoury@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Agilent Gas Chromatograph/Mass Spectrometers			
Optional Use			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
Four Years	September 1, 2014	August 31, 2018	Three One year Options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45 Days	Delivered	30 Days ARO	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
No minimum order requirement			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$187,412.90	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #007114B0002264. Orders for delivery will be issued through the issuance of a Purchase Order Form.

Notice of Contract #: 071B4300148

FOR THE CONTRACTOR:	FOR THE STATE:
Agilent Technologies, Inc. Firm Name	Signature
Authorized Agent Signature	Sharon Walenga-Maynard, Sourcing Director Name/Title
Authorized Agent (Print or Type)	DTMB Procurement Enter Name of Agency
Date	Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Agilent Technologies, Incorporated (“**Contractor**”), a Delaware Corporation. This Contract is effective on September 1, 2014 (“**Effective Date**”), and unless terminated, expires on August 31, 2018.

This Contract may be renewed for up to three additional one year period(s). Renewal must be by written agreement of the parties.

The parties agree as follows:

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

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

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

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

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

If to State:

Yvon Dufour
525 W. Allegan
Constitution Hall 1st Floor NE
Lansing, MI 48933
dufoury@michigan.gov
(517) 284-6996

If to Contractor:

2850 Centerville Road
Wilmington, DE 19808-1610
lsccontracts@agilent.com
Facsimile: 302-993-5788
Phone: 800-227-9770

Contracts Administration Department

3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms and conditions of this Contract (each a “**Contract Administrator**”):

State:
Yvon Dufour
525 W. Allegan
Constitution Hall 1st Floor NE
Lansing, MI 48933
dufoury@michigan.gov
(517) 284-6996

Contractor:
Bill Wynne
2850 Centerville Road
Wilmington, DE 19808-1610
Bill_wynne@agilent.com
302-633-7473

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:
 Carol Smith
 3350 Martin Luther King Blvd,
 Bldg 44, 3rd Floor
 Lansing MI 48906
 smithc@michigan.gov
 517-335-9600

Contractor:
 Mary Cuddyre
 2850 Centerville Road
 Wilmington, DE 19808-1610
 mary_cuddyre@agilent.com
 302-633-8098

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

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

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04; (2) include a waiver of subrogation; and (3) for a claims-made policy, provide 3 years of tail coverage.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds, and (2) include a waiver of subrogation.
Motor Vehicle Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$100,000 Each Accident \$100,000 Each Employee by Disease \$500,000 Aggregate Disease.	



If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

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

- 7. RESERVED
- 8. RESERVED

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.

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

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

13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Contract.

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

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

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

16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the



Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

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

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

- 17. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Exhibit A. All containers and packaging becomes the State's exclusive property upon acceptance.
- 18. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
- 19. **Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Exhibit A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Contract Activities purchased under the Contract are for the State's exclusive use. Prices are exclusive of all taxes, and Contractor shall be solely responsible for payment of any applicable taxes.

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

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

- 21. **Liquidated Damages RESERVED**
- 22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 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 that Section.

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

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

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

26. General Indemnification. Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any 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 (c) 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 and Section 27, Intellectual Property Indemnification, 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. **Intellectual Property 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 claims arising out of or relating to copyright, patent, trademark, or trade secret infringement. Notwithstanding the foregoing, Contractor has no obligation to pay any costs, damages or attorneys' fees related to any infringement claim that arises out of: (a) compliance with designs, plans, or specifications furnished by or on behalf of the State as to any piece of equipment, software, commodity, or service, or (b) the combination, operation or use of the equipment, software or commodity with equipment, software or commodities not supplied by Contractor under this Contract.

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

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

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

- 30. **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 immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within five (5) calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any non-State Data Confidential Information is not feasible, such party must destroy the non-State Data Confidential Information and must certify the same in writing within five (5) calendar days from the date of termination to the other party.

33. *RESERVED*

34. *RESERVED*

35. *RESERVED*

36. **Records Maintenance, Inspection, Examination, and Audit.** Under MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 7 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.



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

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

- 37. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.
- 38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. *RESERVED*
- 41. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
- 42. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 43. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 44. **Non-Exclusivity.** Nothing contained in this Contract is intended nor shall be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 45. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay



caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

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

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

- 47. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 48. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 49. **Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.
- 50. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 51. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 52. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 53. **Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").



STATE OF MICHIGAN

Contract No. 071B4300148
 Agilent Gas Chromatograph/Mass Spectrometers with autosampler

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

This exhibit identifies the requirements of the Contract. The Contract is for a four (4) year term and may be renewed for up to three (3) additional one (1) year periods.

Requirement
1.1 Project Identification
1.1.1 Project Request
This Contract is for the purchase of Agilent Technologies equipment, consumables, and service/maintenance agreements and repair.
Initially this Contract will serve the Department of Environmental Quality (DEQ). The State reserves the right to consolidate other State of Michigan purchases for Agilent Technologies equipment, consumables, maintenance or repair under this Contract
The State reserves the right to modify Contract items to meet the State of Michigan's needs as well as Extended Purchasing Participants.
1.1.2 Background
The DEQ's Lab has standardized Gas Chromatograph and Gas Chromatograph/Mass Spectrometer equipment to Agilent. This contract will be used to add to and maintain the current Agilent laboratory fleet.
1.2 Scope of Work and Deliverable(s)
1.2.1 In Scope
This Contract is to supply the State of Michigan's needs for the purchase of consumables, Gas Chromatograph/Mass Spectrometer instrumentation, and service/maintenance agreements. DEQ anticipates the purchase of Gas Chromatograph/Mass Spectrometer instrumentation for use in Environmental analysis. The instrumentation must meet all DEQ requirements.
1.2.2 Deliverable(s)
The Contractor must be the manufacturer or an authorized distributor.
Product substitution is not allowable unless written approval is received through the issuance of a Contract Change Notice.
A. DEQ's equipment, software, and consumable needs include, but are not limited to:
1. Equipment and Software
<ul style="list-style-type: none"> • Two (2) Agilent 5977A inert MSD with data system including a printer, performance turbo Pump and inert EI Source. Must include open lab chemstation and MassHunter software. Must include Excel. Must include software familiarization. (G7042AA) • Two (2) Ion Gauge Kits for 5977 MSD (G3397B). • Two (2) Agilent 7890C GC for MS with SSL inlet. Includes 100psi split-splitless inlet LAN interface and MS interface (for Agilent 5977 Series MSD) (G3442B) • Two(2) NIST 2011 MS Library Bundle which includes 243K spectra with names, structures, etc (G1033A) • One (1) Agilent 7693A Auto-injector includes transfer turret, 16-sample turret, mounting post, parking for GC, 10uL syringe and solvent bottles. (G4513A) • One (1) 7693 Tray, 150 vial includes 3 removable 50-vial racks and GC mounting bracket. (G4514A) • Equipment should be delivered with all product literature, manuals, and any other applicable documentation • Must include IT Software, patches and upgrades. • Must include 1 year warranty from installation date. • Must include all shipping/freight/ handling fees. • Must include installation and familiarization.
All items MUST be NEW.



Consumables

- a. DEQ's consumables needs include, but are not limited to:
 - o Columns
 - o Vials
 - o Caps
 - o Liners

Service Agreements/Repair

- a. The Contractor must be the manufacturer or an authorized service provider.
- b. The Contractor must have access to manufacturer instrument parts and possess a thorough knowledge of the operation, maintenance, and repair of these instruments.
- c. The following instruments are covered under the service agreement: (TBD, as warranties expire)
- d. The equipment is located at the following locations:

**The State Lab
3350 N. Martin Luther King Blvd,
Bldg 44, 3rd Floor
Lansing MI 48906**

The Contractor is responsible to conduct all services on the instruments, per the manufacturer's instructions.

General Requirements

- a. The Contractor must use original manufacturer replacement parts for all warranty, preventative maintenance, and repairs. If parts are replaced, documentation that parts replaced were original manufacturer replacement parts must be provided with each field service report.
- b. Any and all software upgrades and patches are provided without cost to the State of Michigan. The Contractor must provide on-site training after each software change, enhancement, or upgrade upon request. The Contractor must provide and maintain software on the primary equipment set-up and on a backup computer provided by the State of Michigan.
- c. The Contractor shall have a Michigan sales representative that can meet at State locations no less than once per year.

1.2.3 Quantity/Minimum Order

The State is not obligated to purchase in any specific quantity.
The State requests there be no minimum order.

1.2.4 Warranties

A one (1) year manufacturer warranty from date of installation is included.
The warranty period begins upon installation and successful performance verification.
All consumables include a 90 day warranty.

1.3.1 Reports

The Contractor must provide a field service report for each site visit, whether warranty, preventative maintenance, or a repair visit. If parts are replaced, the Contractor shall attach documentation to the field service report demonstrating that all parts replaced are original manufacturer parts. A copy of each field service report will be provided to the Program Manager, in Section 4 of "Standard Contract Terms".
Upon request, the Contractor must provide summary reports of preventative maintenance and repairs, including but not limited to: usage of spare parts by equipment serial number, type of repair by equipment serial number, and warranty, preventative, and repair visits by equipment serial number.
The State reserves the right to request additional reports as it deems necessary

1.3.2 Meetings

The State may request meetings as it deems appropriate

1.3.3 Recall Requirements and Procedures

The Contractor will issue service notes to address any recall issues. Repairs required by service note are gratis.



1.5 Incentives
The Contractor offers trade in promotion discounts.
2.1 Service Levels
2.1.1 Time Frames
All Contract Activities must be delivered within 30 business days from receipt of order. The receipt of order date is pursuant to Section 2, Notice provisions of the Standard Contract.
2.1.2 Delivery
Deliveries will be made to the address specified on the purchase order.
2.1.3 Installation
Installation will be expected within 10 calendar days upon receipt of instrumentation. (including GCMS)
2.1.4 Technical Support and Repairs
When providing technical support, the Call Center must resolve the caller's issue within 1 business day . If the caller's issue cannot be resolved within 3 business days , on-site service must be scheduled. The on-site service must be performed within 3 business days of the time the issue was scheduled for service.
2.1.5 Maintenance
On-site maintenance must be performed according the recommended manufacturer maintenance schedule.
2.1.6 Training
The Contractor must provide training prior to and at the time of installation. The Contractor's current GC/MS Site Preparation Checklist, Installation Checklist, and Familiarization Checklist will be used as guides for training purposes.
3.1 Staffing
3.1.1 Contractor Representative
The Contractor must appoint one individual who will be directly responsible for the installation throughout the contract period.
Contractor's personnel must be on-site at the location during the installation.
The Contractor must notify the Contract Administrator at least 7 calendar days before removing or assigning a new Contractor Representative.
3.1.2 Customer Service Toll-Free Number
The Contractor must specify its toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8 am to 5 pm EST.
3.1.3 Technical Support, Repairs and Maintenance
The Contractor's toll-free number for technical support, repairs and maintenance is 1-800-227-9770 . The Contractor must be available for calls and service during the hours of 8 am to 5 pm EST.
3.1.4 Disclosure of Subcontractors
No subcontractors will be allowed for installation services.
3.1.5 Security
The Contractor will be subject the following security procedures:
<ul style="list-style-type: none"> • Must notify the laboratory with installation dates two (2) weeks in advance. • Must have photo ID.
4.1 Pricing
4.1.1 Price Term
Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective. The criteria for a re-determination of pricing are under Section 4.1.2, Price Changes.



4.1.2 Price Changes

For the first year of the Contract, prices quoted are valid through August 30th, 2015, with prospective re-determination beginning September 1st, 2015. Thereafter, prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. DTMB-Procurement reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). DTMB-Procurement also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period. Requests for price changes shall be RECEIVED IN WRITING AT LEAST 30 DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. **The Contractor remains responsible for performing according to the contract terms at the contract price for all orders received before price revisions are approved or before the contract is cancelled..**

4.1.3 Tax Excluded from Price

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

5.1 Ordering

5.1.1 Authorizing Document

The payment and appropriate authorizing document for the Contract will be a **Purchase Order**.

5.1.2 Order Verification

The Contractor must have internal controls to verify abnormal orders and to ensure that only authorized individuals place orders.

6.1 Delivery

6.1.1 Delivery Programs

The Contractor will primarily use standard freight for the shipment of equipment. However, the Contractor may utilize expedited shipping methods at their own expense.

The Contractor must notify the State one (1) business day prior to delivery.

6.1.2 Packaging and Palletizing

Packaging shall be in conformance to applicable laws and regulations.

7.1 Acceptance

7.1.1 Acceptance Criteria

a) Of Equipment

Acceptance shall be upon successful completion of the equipment performance evaluation standard. This standard shall be accomplished by following a checklist as a guide under the supervision of the State and a Contractor representative. The Contractor shall provide a current checklist at least two (2) weeks prior to the scheduled activity.

The State reserves the right to maintain the 30 day "State Review Period". See "Standard Contract Terms Section 16".

b) Of Consumables

Products missing certificates or arriving out of temperature may be rejected. Contractor will be required to pay all return freight costs, no re-stocking fees shall apply, and the Contractor will ship replacement product at no additional cost to the State of Michigan. All critical reagents to be quality checked prior to their use. The State of Michigan reserves the right to refuse a shipment that does not meet quality check criteria. Each shipment of reagents must have an expiration date of four months or longer from date of receipt by the laboratory. If the expiration date on received products is less than four months, the shipment can be rejected in total or the Contractor will replace any unused product after the expiration date without



charge. If the shipment is rejected, Contractor will pay for return shipping charges.
<p>c) Service Agreement (Post Warranty) Service of the instrumentation shall be provided by an authorized service engineer employed by the equipment manufacturer. Upon a request for service, the service engineer shall be on site the next business day or by a mutually agreed upon time. The service engineer shall complete the repair and/or calibration within two business days of the initiation of work, or by a mutually agreed upon time. The service shall not be considered complete until the instrumentation meets or exceeds the manufacturer specifications and it operates to the same specifications as it had prior to the service request. The Contractor will provide an authorized service engineer for all repairs. The warranty includes on site repair and the response time is within 48 hours.</p>
<p>7.1.2 Final Acceptance The instrument will pass a performance evaluation check at installation. This standard shall be accomplished by following a checklist as a guide under the supervision of the State and a Contractor representative. The Contractor shall provide a current checklist at least two (2) weeks prior to the scheduled activity.</p>
<p>8.1 Invoice and Payment</p>
<p>8.1.1 Invoice Requirements All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price.</p>
<p>8.1.2 Payment Methods The State will make payment for Contract Activities by EFT</p>
<p>8.1.3 Terms of Payment Standard Contract Terms <i>Section 20</i></p>
<p>9.1 Additional Requirements</p>
<p>9.1.1 Hazardous Chemical Identification In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, <i>et seq.</i>, 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. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number. All current SDS shall be provided by the Contractor a minimum of 2 weeks prior to delivery.</p>
<p>9.1.2 Mercury Content Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. Prior to shipment, 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 cost competitive alternatives do not exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.</p>
<p>9.1.3 Brominated Flame Retardants The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. Prior to shipment, the Contractor must disclose whether the products contain BFRs.</p>
<p>9.1.4 Environmental Permits and Requirements The Contractor must disclose whether any of its facilities are in violation of any environmental laws. The Contractor must immediately notify DTMB-Procurement of the receipt of any EPA, State, or local agency communication indicating that any of the Contractor's facilities are in violation of applicable environmental laws</p>



STATE OF MICHIGAN

Contract No. 071B4300148

Agilent Gas Chromatograph/Mass Spectrometers with Autosampler

EXHIBIT B

PRICING

1. The Pricing schedule for the Contract Activities for Agilent Gas Chromatograph/Mass Spectrometers with Autosampler is listed below
2. Prices include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g. shipping and handling, per piece pricing, and palletizing).
3. The Contractor will be required to furnish all Contract Activities that may be ordered during the Contract period.
4. The Contractor does not offer quick payment terms.
5. The Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.
6. Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dmb for current rates.

	<u>Description/Item</u>	<u>Unit Cost</u>
1	Agilent 5977A inert MSD with data system including a printer, performance turbo Pump and inert EI Source. Must include open lab Chemstation and MassHunter software. Must include Excel. Must include software familiarization. (G7042AA)	\$ 52,259.41
2	Ion Gauge Kits for 5977 MSD (G3397B)	\$ 1,710.73
3	Agilent 7890C GC for MS with SSL inlet. Includes 100psi split-splitless inlet LAN interface and MS interface (for Agilent 5977 Series MSD) (G3442B)	\$ 14,583.04
4	NIST 2011 MS Library Bundle which includes 243K spectra with names, structures, etc. (G1033A)	\$ 4,247.15
5	Agilent 7693A Autoinjector includes transfer turret, 16-sample turret, mounting post, parking for GC, 10uL syringe and solvent bottles. (G4513A)	\$ 5,385.60
6	7693 Tray, 150 vial includes 3 removable 50-vial racks and GC mounting bracket. (G4514A)	\$ 6,426.64
7	1 year warranty from installation date.	Included
9	Shipping/freight/ handling fees.	Included
10	Installation and familiarization.	Included
11	Consumables: Percentage (%) discount "OFF" list price	19.9 %-
12	Equipment Accessories: Percentage (%) discount "OFF" list price	19.9 %



Eligible product lines (PL) for % off list:

- PL DESCRIPTION**
- AZ Gas Chromatography Systems and related Products**
- BZ Gas Chromatography/Mass Spectroscopy Systems and related Products**
- CA Mid Range Gas Chromatography Systems and related Products**
- 29 Liquid Phase Separation Products**
- MA Molecular Spectroscopy**
- LI Laboratory Informatics (except for software services and support products)**
- AJ ICP/MS systems and related Products**
- 74 Support Products (included as a Product option at the time of Product purchase)**
- 89 LC Mass Spectrometers**
- 9C Micro GC**
- 9F AA/OES**

RATES FOR MAINTENANCE & REPAIR					
		RATE A		RATE B	
	<p>*TRAIL stands for 'travel and initial labor'. This charge includes the labor necessary to diagnose and correct most simple failures, or to assess and begin more extensive repairs. This charge includes travel to your site (travel up to 100 miles each way) and 2 hours of labor. If more than two hours of labor are required, additional labor is charged at Rate A or B hourly labor rate, in half-hour increments. Parts, consumables and supplies are not included in the charge.</p>	<p>Rate A applies to instrument modules and systems: Atomic Absorption systems, Automation Solutions, Bioanalyzer, CE, Dissolution, GC, GC/MS (all except Triple Quad & Ion Trap GC/MS), LC, Fluorescence (including Cary Eclipse), Flash Chromatography, FTIR, Physical Testing (VK100, VK200, Friability Tester, Hardness Tester, Disintegration Tester, and Tapped Density Tester), Polymer Characterization (including GPC/SEC systems), NMR, MRI, XRD, UV Vis, and all other systems not mentioned in Rate B</p>		<p>Rate B applies to instrument modules and systems: GC/MS Triple Quad, GC/MS Ion Trap, GC/MS QTOF, ICP-MS, ICP-OES, LC/MS (all), and scanner</p>	
		2-4 day Response	6 days or more Response	2-4 day Response	6 days or more Response
	*On Demand TRAIL	\$2,470	\$1,300	\$2715	\$1,435
	*Multi-System TRAIL	\$1,745	\$920	\$1915	\$1,015
	Additional Hourly Labor rate (Charged after initial 2 hours)	\$310	\$310	\$340	\$340