



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 **5**
 to
 Contract Number **071B5500054**

CONTRACTOR	CLASSIC OPTICAL LABORATORIES, INC.
	3710 Belmont Avenue
	Youngstown, OH 44505
	Dawn Friedkin
	888-522-2020
	dawn@classicoptical.com
*****5500	

STATE	Program Manager	Kevin Dunn	MDHHS
		517-335-5096	
		dunnk3@michigan.gov	
	Contract Administrator	Chelsea Edgett	DTMB
		(517) 284-7017	
		edgettc@michigan.gov	

CONTRACT SUMMARY

FABRICATION OF EYEGLASSES			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2015	December 31, 2017	2 - 1 Year	December 31, 2017
PAYMENT TERMS		DELIVERY TIMEFRAME	
NET 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input 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"/>	N/A	<input type="checkbox"/>	N/A	December 31, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$6,250,000.00	\$0.00	\$6,250,000.00		

DESCRIPTION

Effective February 1, 2017, the following frames and prices are hereby added to this contract:

Bria (Modern) \$8.00
 US74 (Capri) \$8.00
 US53 (Capri) \$8.00
 Care (Modern) \$8.00

Please note that the Contract Administrator has been changed to Chelsea Edgett, Section 3, Standard Contract Terms and Conditions.

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



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 **071B5500054**

CONTRACTOR	CLASSIC OPTICAL LABORATORIES, INC.
	3710 Belmont Avenue
	Youngstown, OH 44505
	Dawn Friedkin
	888-522-2020
	dawn@classicoptical.com
	*****5500

STATE	Program Manager	Kevin Dunn	DHHS
		517-335-5096	
		dunnk3@michigan.gov	
	Contract Administrator	Michael Kennedy	DTMB
		(517) 284-6397	
		KennedyM6@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Fabrication of Eyeglasses				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
January 1, 2015	December 31, 2017	2 - 1 Year	December 31, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
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				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$6,250,000.00		\$ 0.00	\$6,250,000.00	

DESCRIPTION: Effective 5/27/16, the following amendments are incorporated into this contract:

- Section 1.1.A.4.C Work and Deliverables, Lenses, Replacement Lenses, changed from "frames" to "lenses". "Lenses" accurately describes the section. The updated contract language is changed to the following:
 " The Contractor must not charge the State for lenses replaced due to product defect or fabrication error. If within one (1) year after deliver, lenses furnished under the Contact is found to be unsatisfactory due to Contractor error, defective workmanship and/or defective materials, the Contractor must correct, adjust or replace the products at Contractor's expense, without cost to the State, the Vision Provider, or the beneficiary. After receipt of the returned item, the Contractor must ship replacement or repaired items within five (5) working days of receipt of the unsatisfactory materials. The Contractor must bear the cost of shipping for any such items."
- Contract Administrator is changed to Michael Kennedy (Section 3, Standard Contract Terms and Conditions):

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. 071B5500054
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Classic Optical Laboratories, Inc. 3710 Belmont Avenue Youngstown, OH 44505	Dawn Friedkin	dawn@classicoptical.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	888-522-2020	*****5500

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MDHHS	Kevin Dunn	517-335-5096	Dunnk3@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Fabrication of Eyeglasses			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2015	December 31, 2017	2 – 1-Year	December 31, 2017
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input 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"/>		December 31, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$6,250,000.00		\$0.00	\$6,250,000.00	

DESCRIPTION: Effective February 1, 2016, the following frames are hereby removed from this contract: Candia (Limited Edition), Electra (Zimco), Yank (Criss), James (Modern), and 304 (Limited Edition).

The following frames and prices are hereby added to this contract: Chill (Modern) \$8.00; Cosmo (Modern) \$8.00; Launch (Modern) \$8.00; Pixie (Modern) \$8.00; Sheer (Modern) \$8.00; Parallel (Modern) \$8.00; and Wow (Modern) \$8.00.

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. 2
 to
CONTRACT NO. 071B5500054
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Classic Optical Laboratories, Inc. 3710 Belmont Avenue Youngstown, OH 44505	Dawn Friedkin	dawn@classicoptical.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	888-522-2020	*****5500

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MDHHS	Kevin Dunn	517-335-5096	Dunnk3@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Lance Kingsbury	517-284-7017	KingsburyL@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Fabrication of Eyeglasses			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2015	December 31, 2017	2 – 1-Year	December 31, 2017
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input 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	
\$6,250,000.00		\$0.00	\$6,250,000.00	
DESCRIPTION: Effective December 18, 2015, the following subcontractors are added per Section 3.6 Disclosure of Subcontractors.				
All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement and DTMB-Procurement approval.				

3.6 Disclosure of Subcontractors:

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

1. 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.
See the table below for all subcontractor information. Should the Contractor need to utilize any of the entities in this table, they will all perform the same function -- manufacture eyeglasses and ship them back to the Contractor.
2. The relationship of the Subcontractor to the Contractor.
All of the proposed subcontractors are wholly-owned or majority-owned subsidiaries of Essilor Laboratories of America Holding Co., Inc., a brother-sister affiliate of the Contractor. All are separate legal entities.
3. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
The Contractor has previously used both Central One and 21st Century as a subcontractor in recent years to manufacture eyeglasses.
4. A complete description of the Contract Activities that will be performed or provided by the subcontractor.
The Contract Activities to potentially be performed by the subcontractors' include receiving orders, surfacing lenses, edging lenses, inserting lenses into frames, and shipping completed eyeglasses back to the Contractor.
5. Of the total price, the price of the subcontractor's work.
The current total price for the potential subcontractor's work is unknown. The Contractor has no set plan to subcontract/outsource the Contract Activities for the program. Rather, the Contractor is asking for this permission to use brother-sister companies should the need arise, on occasion, to reduce the potential for service disruption.

21 st Century Optical 4700 33 rd Street Long Island City, NY 11101 718.392.2310	Rooney Optical, Inc. 5440 West 164 th Street Brook Park, OH 44142 216.267.5600
Tri-Supreme Optical 91 Carolyn Blvd. Farmingdale, NY 11735 631.249.2020	Bell Optical Laboratory Inc. 3671 Interchange Road Columbus, OH 43204 800.776.8077
Twin City Optical 2323 Aero Park Court Traverse City, MI 49684 800.441.0344	Bell Optical Laboratory Inc. 9221 Ravenna Road Twinsburg, OH 44087 800.622.9008
Vision-Craft, Inc. 3285 Martin Road, #110 Walled Lake, MI 48390 800.686.6203	Central-1-Optical, LLC dba Central One Optical 6981 Southern Blvd. Youngstown, OH 44512 800.322.6678
Optical Supply, Inc. (Lab Network Services) 1526 Plainfield Ave. NE Grand Rapids, MI 49505 616.361.7177	Crown Optical 15 Commerce Street Greenville, RI 02828 401.949.3400
R.D. Cherry, Inc. - Cherry Optical 2429 Oakwood Blvd. Melvindale, MI 48122 313.388.7622	AccuRX 100 Federal Way Johnston, RI 02919 800.234.2369
Interstate Optical Co. 680 Lindaire Lane Mansfield, OH 44906 800.472.5790	McLeod Optical Company, Inc. 50 Jefferson Park Road Warwick, RI 02888 401.467.3000

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. 071B5500054
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Classic Optical Laboratories, Inc. 3710 Belmont Avenue Youngstown, OH 44505	Dawn Friedkin	dawn@classicoptical.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(888) 522-2020	-5500

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	DCH	Kevin Dunn	(517) 335-5096	Dunnk3@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Mary Ostrowski	(517) 284-7021	ostrowskim@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Fabrication of Eyeglasses			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2015	December 31, 2017	2, one year	December 31, 2017
PAYMENT TERMS	F.O.B.	SHIPPED TO	
Net 45	N/A	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				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>	N/A	December 31, 2017
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$6,250,000.00		\$0.00	\$6,250,000.00	

DESCRIPTION:

Effective May 1, 2015, the Contract is amended as follows:
 1. The following frames are hereby added to the Contract:

Safety Frames	Price
70F (Titmus)	\$15.00
SL-920 (Hudson)	\$12.00
SL-921 (Hudson)	\$12.00
SL-5 (Hudson)	\$15.00

2. Standard Contract Terms document, Section 6. Insurance Requirements for Cyber Liability Insurance is hereby replaced with the following:

Cyber Liability Insurance

Minimal Limits:

\$3,000,000 Each Occurrence

\$3,000,000 Annual Aggregate Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

All other terms, conditions, specifications, and pricing remain the same. Per Vendor and Agency agreement, and DTMB Procurement approval.

STATE OF MICHIGAN
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 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

**NOTICE OF
 CONTRACT NO. 071B5500054**
 Between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Classic Optical Laboratories, Inc. 3710 Belmont Avenue Youngstown, OH 44505	Dawn Friedkin	dawn@classicoptical.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(888) 522-2020 Ext. 1311	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DCH	Kevin Dunn	(517) 335-5096	Dunnk3@michigan.gov
BUYER:	DTMB	Mary Ostrowski	(517) 284-7021	ostrowskim@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Fabrication of Eyeglasses			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 Year	January 1, 2015	December 31, 2017	2 Option Years
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
NET 45	Destination	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$6,250,000.00

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

CONTRACT NO. 071B5500054
 Between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Classic Optical Laboratories, Inc. 3710 Belmont Avenue Youngstown, OH 44505	Dawn Friedkin	dawn@classicoptical.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(888) 522-2020 Ext. 1311	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DCH	Kevin Dunn	(517) 335-5096	Dunnk3@michigan.gov
BUYER:	DTMB	Mary Ostrowski	(517) 284-7021	ostrowskim@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Fabrication of Eyeglasses			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 Year	January 1, 2015	December 31, 2017	2 Option Years
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
NET 45	Destination	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$6,250,000.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #007114B0002968. Orders for delivery will be issued directly by the Department of Community Health through the issuance of a Purchase Order.

Notice of Contract #: 071B5500054

FOR THE CONTRACTOR:	FOR THE STATE:
Classic Optical Laboratories, Inc.	
Firm Name	Signature Tom Falik
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	DTMB - Procurement Enter Name of Agency
Date	Date



STATE OF MICHIGAN
Department of Technology, Management and Budget
Procurement

Fabrication of Eyeglasses and Related Services
Contract No. 071B5500054

Buyer: Mary Ostrowski
Telephone Number: (517) 284-7021
DTMB-Procurement Telephone Number 1-855-MI-PURCH (1-855-647-8724)
E-Mail Address: ostrowskim@michigan.gov

This is a Contract for Fabrication of Eyeglasses and Related Services for the Michigan Department of Community Health (MDCH)



**EXHIBIT A
STATEMENT OF WORK
CONTRACT ACTIVITIES**

Project Request

This is a Contract for fabrication of eyeglasses and other related services. These products include fabrication of ophthalmic materials (frames, lenses, and other related accessories). These items are ordered by Michigan Medicaid Providers for Beneficiaries who are Medicaid Fee-For-Service (FFS), Beneficiaries who are dually enrolled Medicare/Medicaid (FFS), Beneficiaries who are enrolled in Healthy Michigan (FFS), beneficiaries that are dually enrolled Medicaid/Children’s Special Health Care Services (CSHCS) (FFS), and CSHCS only when eligibility is related to a qualifying diagnosis. The Contractor is required to provide all the products that may be ordered during the Contract period and all products must be high quality.

Background

In 1979, the State’s Medicaid Task Force on Cost Containment recommended that substantial savings could be achieved by the volume purchase of eyeglasses for Medicaid beneficiaries. Because of this recommendation, Michigan Public Act 110 of 1979 was passed. This legislation authorized Michigan Department of Community Health (MDCH) to contract for volume purchase of eyeglasses. Since 1980, ten contracts have been awarded ranging in length from 18 months to 5 years. Contractors are required to fabricate enrolled Medicaid Provider’s eyeglass prescription only with approved ophthalmic frames and lenses that are then mailed/shipped back to the Provider for dispensing. Over 30 to 40 ophthalmic frames, metal and plastic, have been on the contracts. These frames are reviewed and updated as appropriate. Contractors are required to provide sample frame kits that can be purchased at contract prices by enrolled Medicaid Providers. Various lens designs are required: single vision, bifocals, and trifocals in glass, polycarbonate, and high index plastic, as well as ophthalmic cases. All lenses and frames must meet appropriate standards set forth by the American National Standards Institute Inc., (ANSI) and the Food and Drug Administration (FDA) requirements. Contractors are required to maintain a quality assurance program, adherence to fabrication/delivery schedules, provide online ordering of prescriptions, maintain a beneficiary history file, fill only prescriptions that meet initial and subsequent diopter criteria, fill only prescriptions that do not exceed frequency limits, assure beneficiary eligibility, and provide various reports. Presently, over 90% of all orders are completed in 3 days or less, and over 90% of all orders are submitted online. The use of information technology has afforded greater efficiency and effectiveness in implementing this cost containing volume purchase program. Compliance with Health Insurance Portability and Accountability Act (HIPAA) regulations and the State’s Medicaid Vision Manual and all Bulletins are required. Up to three State employees/agents at Contractor’s expense twice a year conduct on-site audits.

Currently there were approximately 4572 frames and 9113 lenses fabricated monthly, possible 5% increase in volume due to the Healthy Michigan Plan. There is no guarantee by the State of Michigan of quantities of products to be provided or number of orders to be sent under this Contract.

1.0 Requirements

1.1 Work and Deliverables

A. Lenses

1. General Lens Requirements

- a. The Contractor must furnish quality single vision, bifocal and trifocal impact resistant glass, plastic, polycarbonate, and high index plastic lenses. See Exhibit C “Item Listing for Lenses” and section 1.1.N, Quality Assurance.
 - 1) Lenses must conform to ANSI for Ophthalmic, recommendation for Prescription Ophthalmic Lenses, ANSI Z80.1-2010, or latest edition thereof, and the (FDA) regulations for impact resistant lenses.
 - 2) Lens must be fabricated in minus cylinder form, unless the Vision Provider Specifies plus-cylinder form.
- b. There must be no additional charge for lens insertion into frames (metal or plastic).
- c. There must be no separate charge for decentration.
- d. The Contractor must not charge an additional cost for any special base curves.
- e. There must be no additional charge for impact resistance testing.



- f. An oversize lens will not be permitted for lenses inserted into any frame specified within the Contract.
- g. No charge will be permitted for “grinding prism” to attain a specific interpupillary distance (PD).

2. Initial Lens Prescription

For the purpose of this Program, initial lens prescriptions are the first lenses ever worn by a person regardless of how they were obtained. The following minimum diopter criteria must be met for fabrication:

<u>Age 42 years and Younger</u>	<u>Age 43 years and Older</u>
0.50D myopia	0.50D myopia
0.50D astigmatism	0.50D astigmatism
0.75D anisometropia	0.75D anisometropia
0.75D hyperopia	0.50D presbyopia
	0.50D hyperopia

3. Subsequent Lens Prescription

- a. Subsequent lens prescriptions are those provided after the initial lens prescription.
- b. Subsequent lenses may be provided when there is a change in the refractive error of 0.75D or more in the meridian of greatest change, or a change in the cylinder axis of at least 10 degrees for cylinders of 1.00D or more.
- c. These lenses must also meet the minimum diopter criteria as specified under initial lens prescription.

The Contractor’s MMIS must include an online order form that is only available to Michigan providers and will not allow an order for a frame, lens, or service that is not on the Michigan contract. The form must not permit a lens order where the subsequent Rx does not meet the minimum diopter requirements as defined by the State. This requirement is processed as part of the Rx Based Eligibility in conjunction with the order information (date of birth) and the Contractor’s History File as provided in Figure 1. This form can be further modified, and it has been over the years, to meet the changing needs of the evolution of the program.

- d. The Contractor must return the order form DCH 0893 to the Vision Provider for submission to the Program Manager for all orders that meet diopter criteria for subsequent lenses but have exceeded the frequency limit for replacement (see below).

The Contractor must provide the following functionality in Michigan-Specific Benefit Management System with SMART online ordering:

- a completely-integrated *real-time* State Medicaid eligibility component;
- real-time previous Rx frequency confirmation (look back to see when the last lens, frame and/or complete pair was provided);
- real-time, on screen confirmation that orders are processing meeting eligibility and frequency requirements;
- a SMART RX form (designed to mirror the DCH 0893) that limits orders only to items (lens materials and powers and contract frames) available under the program;
- real-time on screen notice that orders are NOT processing that do not meet any one of the eligibility or frequency requirements
- minimum diopter rules confirmation for original and subsequent Rx (this cannot be real-time because it requires all of the Rx data fields to be compared to the previous Rx);
- e-mail confirmation that orders are processing that meeting minimum diopter requirements; and
- e-mail confirmation that orders are NOT processing that do not meet minimum order requirements

For orders that meet the minimum diopter requirements, but not frequency, the Contractor MMIS must send the provider an e-mail notice within two hours of the order submission. The notice will advise that the order does not meet the frequency requirement and for this reason cannot be processed. At this point the provider has the option to print the order (completed electronic version of the DCH 0893), as placed by the Vision



Provider, and submit to the Program Manager for prior authorization as an exception from Medicaid Vision Policy.

Any typed orders received by mail or fax (not online) must be entered by the Contractor and run through the same internal MMIS Benefit Management System to confirm eligibility, frequency and Rx requirements. Orders that do not meet these requirements must be returned by mail to the Vision Provider with an explanation of the reason or the return. At this point the provider has the option to submit the order (DCH 0893) to the Program Manager for prior authorization as an exception from Medicaid Vision Policy.

- e. If the diopter change is due to a change in lens design (i.e. bifocal to single vision), the Contractor must return the order form DCH 0893 to the Vision Provider for submission to the Program Manager for possible exception from Medicaid Vision Policy.

For orders that are faxed or mailed, when the diopter change is due to a change in lens design (i.e. bifocal to single vision), the Contractor must return the order form DCH 0893 to the Vision Provider for submission to the Program Manager for possible exception from Medicaid Vision Policy.

For orders placed online where the diopter change is due to a change in lens design (i.e. bifocal to single vision), the Contractor must send the provider an e-mail notice within two hours of the order submission. The notice must advise that the order does not meet the minimum diopter change requirements and for this reason cannot be processed. At this point the provider would have the option to print the order (completed electronic version of the DCH 0893), as placed by the Vision Provider, and submit to the Program Manager for prior authorization as an exception from Medicaid Vision Policy.

Any order received by mail or fax (not online) are entered by the Contractor and run through the same internal MMIS Benefit Management System to confirm eligibility, frequency and Rx requirements. Orders that do not meet these requirements must be returned by mail to the Vision Provider with an explanation of the reason or the return. At this point the provider has the option to submit the order (DCH 0893) to the Program Manager for prior authorization as an exception from Medicaid Vision Policy.

- f. Subsequent lens prescriptions that are more than 24 months from the most recent previous prescription are not required to meet subsequent diopter criteria but must meet the initial diopter criteria.

For orders that meet the minimum diopter requirements, but not frequency, the Contractor must send the provider an e-mail notice within two hours of the order submission. The notice must advise that the order does not meet the frequency requirement and for this reason cannot be processed. At this point the provider has the option to print the order (completed electronic version of the DCH 0893), as placed by the Vision Provider, and submit to the Program Manager for prior authorization as an exception from Medicaid Vision Policy.

4. Replacement Lenses

- a. Replacement lenses are defined as those lenses being replaced due to loss, breakage, or stolen. The replacement lenses must be an exact duplication of those previously issued.

The Contractor's MMIS must include functionality to compare the current Rx order to the previous Rx order and the time frame within which the last order was fabricated and shipped to the Vision Provider. Where the Rx is the exact same, the order processes. Where the Rx is different, the order must be rejected and the order is not processed. The means to notify the Vision Provider are the same as described above; if the order was placed online, the notice must be via immediate pop-up if it is eligibility or frequency related and e-mail if is Rx-related. For orders placed via fax or mail, the order must be returned by mail with an explanation of the rejection.

- b. Replacement lenses may be provided up to one time in a year for a Beneficiary aged 21 and over and up to two times a year for a Beneficiary under the age of 21.

The Contractor's MMIS must include functionality to manage age-based benefits by establishing the age of the patient and then looking back at the previous Rx within a certain period of time.

- c. The Contractor must not charge the State for lenses replaced due to product defect or fabrication error.



If within one (1) year after delivery, a frame furnished under the Contract is found to be unsatisfactory due to Contractor error, defective workmanship and/or defective materials, the Contractor must correct, adjust or replace the products at Contractor's expense, without cost to the State, the Vision Provider, or the beneficiary. After receipt of the returned item, the Contractor must ship the replacement or repaired items within five (5) working days of receipt of the unsatisfactory materials. The Contractor must bear the cost of shipping for any such item.

B. Frames**1. General Frame Requirements**

- a. The Contractor must provide quality frames in both metal and plastic with standard and adjustable nose pads. See Exhibit C "Items Listing for Frames" and section 1.1.N, Quality Assurance.
 - 1) Frames must meet the ANSI for Ophthalmic, Requirements for Ophthalmic Frames, ANSI Z80.5-2010, or latest edition thereof.
- b. The Contractor must provide a variety of size, color, and design of frames.

All Contracted frames must be available in Frames Data (the industry publication that advises on the currently commercially available styles) and currently stocked at Contractor.

- c. The frame selection must accommodate a wide range of choices that would appeal to the general population for all ages.
- d. Obtain Program Manager approval on any new frame, and proposed pricing of the frame, before adding a new frame to the Contract. The final approval is at the discretion of MDCH. If approved, DTMB-Procurement will issue an amendment to the Contract.
- e. The Contractor must provide Providers with a list of frames available under the Contract.

The Contractor's Michigan Frame Brochure must include a list and pictures of all the currently available State-approved Michigan frames. This Brochure must be available to Vision Providers on the Michigan-specific section of the Contractor's Vision Provider portal. Providers can download the Brochure or save it to their computer.

Providers can also call the Contractor to request a Brochure be e-mailed, faxed or sent via U.S. mail.

The Contractor must send a copy of any new or revised Brochure to the Vision Providers and post it online as provided above.

- 1) The Contractor must update this list when new frames have been approved by the Program Manager and added to the Contract.

The Contractor must also update the list, the picture, sizes and colors of the frames, in the Frame Brochure and post the revised Brochure online in the Michigan-specific section of the Contractor's Vision Provider portal.

- f. The Contractor must furnish sample frames to Providers. Providers will be responsible for purchasing such frames directly from the Contractor.
- g. The Contractor must furnish, at the Provider's expense, at least one of each style, size, and color of frame at the State's contracted price, plus shipping and postage charges.
- h. Periodic frame review meetings, as determined by the Program Manager, will be held to review frame selection, utilization, and availability. Meetings will be held at least annually. Additional meetings will occur at the discretion of the Program Manager.



The Contractor must bring data to these conversations that includes analysis of the utilization patterns by age group and style the Contractor must also share information on popular styles from these programs, and other relevant data.

- i. The Contractor must have new frames available for State review at these meetings.
- j. The Contractor must provide the Program Manager a list of manufacturers and supplies used during the Contract term as well as a sample of each frame style at no charge to the State.
 - 1) Contractor must provide the list at the beginning of the Contract and at any time changes are made to the list.
- k. The Contractor agrees to refrain from inserting lenses into frames that are not specifically available under this Contract, unless specifically authorized by the Program Manager.
- l. Frames excluded from Medicaid coverage include but are not limited to wireless and semi-wireless frames.

2. Frame Replacement and Substitution

- a. If, during the period of this Contract, any Contract frame(s) is/are discontinued, the Contractor must select replacements of equal quality for consideration and approval by the Program Manager. The final selection shall be at the discretion of the MDCH. If approved, DTMB-Procurement will issue an amendment to the Contract.
- b. If, during this Contract, a frame or frames are not available from the manufacturer and the Contractor cannot obtain the frames which results in Contractor becoming non-compliant with the fabrication time schedules as specified in this Contract, the Contractor may substitute a frame of equal quality, if all the following have been met:
 - 1) The Contractor has obtained written approval from the Program Manager for the frame to be used as a substitute.
 - 2) The Provider has obtained approval from the Beneficiary for the substitution.
- c. If a frame is on backorder from the manufacturer, the Contractor must notify each Provider who has ordered the frame of the delay and approximate time for delivery.

The Contractor must provide several methods of advising providers.

Website Notice – On the front page of the Michigan section, The Contractor must offer notice to providers of the frame style(s), size(s), and color(s) and the expected delivery date, where available. These notices must always be dated so providers can easily look for new information.

Back Order Link - In the informational links of the state-specific sections, the Contractor must maintain a back order frame list of any frame back-ordered for the specific program. The list must include all relevant frame information and the expected delivery date, where available.

Order Form Pop-Up - The Contractor's online form offers a pop-up advising of the back-order if the provider tries to place an order for the back ordered frame.

Temporary Frame Removal - In rare cases where a frame is on backorder for an extended period, the Contractor temporarily removes it from the ordering system, with the state's approval, and must offer a website notice to advise providers.

Phone Calls - The Contractor's Customer Service team must call any provider who orders a frame that is on back order to confirm whether another frame can be selected. Customer Service must prioritize calls to providers who place orders via facsimile or mail.



Printed Notices - Printed back order frame notices must also be mailed with orders to help reach providers who are not ordering online.

The Contractor must provide consistent and timely delivery of its products. The Contractor must require its vendors to maintain fill rates of a minimum of 99%. Any vendor that consistently falls below this threshold is removed from existing programs as quickly as possible and is not utilized in future programs.

- 1) If a Provider agrees to wait for the frame, the Contractor must document the date of contact and the Provider's approval for audit purposes.

The Contractor must notify each affected Provider by phone about the delay and the approximate time for delivery even though the Provider also receives an online pop-up notice, as provided in section 2(c) above. The Contractor must suggest an alternate frame, when available. If the patient desires to wait until the original frame is available, the Contractor must make a notation to the order.

- 2) The Contractor must notify the Program Manager of backorders as they occur.
 - d. If a frame needs to be replaced because the frame has been lost, stolen, or broken, the replacement frame must be the exact duplicate of the previous issued frame except when such frame is no longer available under this Contract.

The Contractor's MMIS must include functionality to compare the current frame order to the previous frame order. Where the frame is the exact same, the order processes. Where the frame is different, the order is rejected and the order is not processed. The means to notify the Vision Provider are the same as described above; if the order was placed online, the notice is via immediate pop-up as the non-covered frame is being ordered. For orders placed via fax or mail, the order must be returned by mail with an explanation of the rejection.

In the rare circumstance when the frame is no longer available, the MMIS is designed to allow the Provider to order a different covered frame.

- e. The Contractor must not charge the State of Michigan for frames replaced due to product defect.

The Contractor warrants its frames to be free of defects from manufacturing. Should an item furnished under the Contract be found to be unsatisfactory due to defective workmanship and/or defective materials, the Contractor will correct, adjust or replace the products at the Contractor's expense, without cost to Medicaid, the provider, or the recipient.

C. Corrective/Protective Lenses and Frames

1. The Contractor must provide corrective/protective lenses and frames when required medically.
2. Corrective/protective lenses and frames must meet the American National Standard Occupational and Education Personal Eye and Face Protection Devices, ANSI Z87.1-2010, or latest edition thereof. See "**Item Listing for Frames, Exhibit C.**"

D. Eyeglass Case Provision

1. The Contractor must provide one eyeglass case for every complete pair of glasses ordered.
2. The State will not authorize payment for eyeglass cases ordered separately.

E. Inventory Management

1. The Contractor must maintain a supply of frames and lenses to meet the fabrication times required under this Contract for State of Michigan orders.
2. The Contractor must maintain a fill rate of 99% on frames and 100% on lenses.



3. The Contractor must maintain a 45-day supply of frames in-house.

F. Out of Scope

1. The Contractor is not required to furnish any measurement or fitting services under this Contract.
2. The Contractor will not be required to provide eyeglass repairs, unless, if within 90 days after delivery, an article furnished under this Contract is found to be unsatisfactory due to Contractor error, defective workmanship, and/or materials, the same must be corrected, adjusted, or replaced by the Contractor, as necessary, at the Contractor's expense.

G. Fabrication Schedule

1. All orders for ophthalmic lenses must be prepared, inserted into frames (when frames are provided), and accompanied by an eyeglass case (when a case is appropriate to the Contract), and delivered to the Provider within the fabrication schedule specified below. Delivered to the Provider is defined as placing the lenses or framed lenses and case in the hands of the postal service, UPS, or any other customary delivery service within the number of working days indicated below.
2. All orders received by mail or Fax must be date-stamped within one working day of receipt of the order.
3. All orders received online must have the date and time recorded automatically when received.
4. All orders for plastic, glass, and polycarbonate lenses must be delivered to the Provider within four working days after the Contractor's receipt of the order, with the exception of some high powered prescriptions which are delivered within seven days.
5. All orders for lenses with high power prescriptions (spherical equivalent of plus/minus 7.12D and above) and/or prism must be delivered to the Provider within seven working days after the Contractor's receipt of the order.
6. All orders for frames only must be delivered to the Provider within two working days after the Contractor's receipt of the order.
7. If an order is received with incomplete and/or inconsistent data, it must be returned to the Provider if not corrected within two working days.

The Contractor's online ordering system must prevent incomplete orders from being placed. The Contractor must have a system for handling incomplete and illegible faxed and mailed orders.

The Contractor must fax providers to request missing information on the same day Contractor receives the order which also creates a written record of the request and correlating response. For paper orders received by mail or fax, the Contractor must fax back the order with a stamp indicating that the order is incomplete or illegible and must request the provider send the requested information and/or resend the order. If the Contractor does not receive the order back within 24 hours, the Contractor must also call the provider to seek the missing information.

Where the information necessary to complete an order for a State of Michigan Beneficiary is not received within 24 hours, the Contractor must return the order with a note advising that the order cannot be processed until all relevant information is provided.

All orders requiring prior authorization must be type written and faxed to the State of Michigan and to Contractor via courier upon approval.

8. The replacement of a complete frame is a benefit only when the original frame is broken beyond repair and the prescription lenses remain usable. The prescription of the lenses to be utilized with the replacement frame must be reported on the order form.



9. The Contractor must notify the Program Manager, by fax or email, each working day of each order that is not completed within time frames listed above and provide the reason for the delay. The list submitted must be continuous and all inclusive until the order has been completed. If the reason for delay of an order is approved and an extension given, liquidated damages will not be imposed on that order. If the time extension is not met, liquidated damages may be imposed.

The Contractor must make every effort to deliver every order on time, as expected. The Contractor must make sure that every order is proceeding through the lab on schedule and expedite any order that may be lagging behind or that need special attention.

H. Order Form

1. All orders for eyewear under this Contract must be furnished by the Contractor only upon receipt of a Vision Services Approval/Order Form DCH 0893 (paper) or the Contractor's State of Michigan Online order form (electronic), which must be a mirror image of the Vision Services Approval/Order Form DCH 0893.
2. Whether or not prior authorization is required, the Contractor will be responsible for reviewing certain data fields on form DCH 0893 as follows:
 - Date of Order
 - Signature
 - Birth Date
 - ID Number
 - Diagnosis
 - Description of Service
 - Procedure Code
 - Modifier
 - Quantity
 - Frame Specifications
 - Specifications of Lens(s) to be ordered
 - Special Instructions to Laboratory
 - Prescribing Provider NPI.

During its review of these data fields, should the Contractor identify inconsistencies or errors, the Contractor is responsible for resolving these and having the corrected data inserted on the DCH 0893 form prior to fabrication.

3. The Contractor must provide Providers with the capability of submitting orders (prescriptions) online at no charge to the Provider or the State.

The Contractor must provide their full-service website available 24/7/365 to facilitate communication with Medicaid optical providers. The Contractor must designate specific password-protected pages of the website for this Contract and its providers. The following list provides a brief overview of the features and functions available to providers on the contract-specific pages.

- Place orders online via a SMART form (limited to items on contract and possible ophthalmic combinations; pre-populated with provider and patient data);
- Receive an email communication that the order has been received;
- Receive an email communication that the order has passed eligibility or been denied with the specific denial reason (For this Contract this is real-time, not via e-mail);
- View order status (in excess of 250 locations within the Contractor's Optical facility);
- Track orders (is it in the lab, did it ship, etc.);
- View and print frame information (individual pictures, size and color information, full collection brochure, back orders, new additions, etc.);
- View and print a list of frames on backorder;
- Confirm eligibility;
- View recipient's previous Rx and frame information (for orders placed with Contractor);
- View benefit information and any related notices from the State;



- View frequently asked questions about the specific eyeglasses program; and
- Print blank order forms.

The Contractor must provide all functionality of the system to the State and Providers free of charge.

The Contractor has developed, implemented, operates, updates, and maintains its Michigan Medicaid state-approved HIPAA-compliant provider portal where providers have all of the above-provided functionality.

4. The Contractor, Inc. must ensure confidentiality in accordance with HIPAA requirements (see sections 31 and 33 of Standard Contract Terms, and Exhibit D, General Security Requirements and Exhibit E, HIPAA Business Associate Agreement Addendum).
 - a. Electronic submissions must consist of the following parameters for consideration. Electronic submission infrastructure from the Contractor must follow the DCH-0893 format, verify from Medicaid CHAMPS system or other state approved resources both beneficiary and Provider's eligibility and verify history to meet the criteria set in Michigan Medicaid policy.

I. Eligibility Verification

1. The Contractor will be responsible for verifying that the Beneficiary is eligible for Medical assistance on the Date of Order specified on the DCH 0893 for all orders received no more than 30 days after the Date of Order or approval by the Program Manager.
2. The Contractor must verify eligibility real-time using a State approved automated system (see Exhibit D, General Security Requirements, and section 31 and 33 of Standard Contract Terms).
3. The Contractor must not service any order on which the Beneficiary is not eligible for Medical Assistance on the Date of Order specified on the DCH 0893.
 - a. The Contractor must return such orders to the Provider.
 - b. The Contractor must advise the Provider accordingly.
4. The Contractor must process those orders received no more than 30 days after the Date of Order where the Beneficiary is eligible on the Date of Order.

The Contractor's system must automatically confirm the 30-day window and must not allow orders that exceed this time period, unless otherwise approved by the program Manager. Eligible orders placed within 30 days are processed.

5. If an order is received over 30 days after the Date of Order, the Contractor must return the order to the Provider who will be required to request an exception from the Program Manager explaining the reason submission was delayed.

The Contractor's MMIS and online ordering system must not allow an order to be entered where the received date exceeds 30 days from the Date of Order (as detailed in Figure 1 and Stage 1 of its description). For this reason, there is no order to return. For the less than 1% of orders received via fax or mail, these orders must be scanned at Data Entry and returned to the Vision Provider by mail where the received date exceeds 30 days from the Date of Order.

6. The Contractor must verify level of care codes through a State approved automated system (see Exhibit D, General Security Requirements, and sections 31 and 33 of Standard Contract Terms).
 - a. If the Beneficiary is covered under a Medicaid Health Plan on the Date of Order specified on DCH 0893:
 - 1) The Contractor must return such orders to the Provider.
 - 2) The Contractor must advise the Provider accordingly. The Provider is responsible for notifying the Beneficiary of their eligibility.



The Contractor's system must not allow a State of Michigan Medicaid order to be entered where the Beneficiary is covered under a Medicaid Health Plan (as detailed in Figure 1 and Stage 1 of its description). The system will return an immediate online notice before an order can be entered.

For the less than 1% of orders received via fax or mail, eligibility must be manually confirmed for these orders and returned to the Vision Provider by mail where the Beneficiary is eligible under a Medicaid Health Plan, not the State program.

J. Monitoring Frequency

1. The Contractor must be responsible for history transfer from the current Contractor.
 - a. The Contractor must be able to format data to State specifications for transfer to the State Data Warehouse.

The Contractor's Chief Information Officer is to coordinate the data transfer based on specifications provided by the State.

- b. The Contractor must provide online access to the Program Manager to all data files including query and ad hoc tools.
2. The State shall authorize payment for replacement of eyeglasses as follows:
 - a) Adults, 21 and older: one (1) per year.
 - b) Minors, under 21 years: two (2) per year.
3. The Contractor must monitor the frequency of orders for each individual Beneficiary to ensure compliance with this frequency.
4. The Contractor must be responsible for verifying this frequency on each order prior to processing.
5. Upon determination that servicing an order (DCH 0893) will result in exceeding the authorized frequency, the Contractor must return the order to the Provider and advise the Provider accordingly.

The Contractor's system must not allow an order where the authorized frequency has been exhausted. The system must return an immediate online notice before an order can be entered.

For the less than 1% of orders received via fax or mail, eligibility and frequency must be confirmed through the Contractor's MMIS system and returned to the Vision Provider by mail where the where the authorized frequency has been exhausted.

6. A negative action notice must be sent to the Beneficiary by the Contractor.
7. The Contractor must be responsible for updating the history file in real time upon completion of the order with current data prescription elements for each order.
8. The following data must be recorded using the parameters set by the Department:
 - a. Beneficiary Medicaid Identification Number
 - b. Beneficiary Name
 - c. Date of Order
 - d. Vision Provider National Provider Identification Number (NPI)
 - e. Lens procedure code
 - f. Frames procedure code
 - g. frame name
 - h. complete prescription including sphere, cylinder, axis, prism, lens material, and segment design, add, and tint if appropriate.



9. Within 30 days of completion of all pending orders following the end of the Contract term, the Contractor must surrender all history data to the State and/or current contractor.

K. Monitoring Diopter Criteria

1. The Contractor must ensure that all orders received, which do not require prior authorization by the Department, meet the minimum diopter criteria. (See Initial Lens Prescription and Subsequent Lens Prescription sections 1.1.A.2 and 1.1.A.3).
 - a. The Contractor must be responsible for verifying these criteria, on the history file, on each order prior to processing.
2. The Contractor must return to the Provider any order (DCH 0893), which does not meet the minimum diopter criteria, and advise the Provider accordingly.

The Contractor's system must not allow an order where the diopter criteria are not met, whether initial or subsequent. As detailed in Figure 1, Stages 1 and 3, the system must return an e-mail notice to the Provider where the diopter criteria are not met.

For the less than 1% of orders received via fax or mail, eligibility, frequency and Rx-based requirements like initial and minimum diopter requirements, are confirmed through the Contractor's MMIS system and returned to the Vision Provider by mail where the requirements have not been met.

- a. A negative action must be sent to the beneficiary by the Contractor.
3. The Contractor must be responsible for updating this history file in real-time upon completion of the order, with current data prescription elements for each order.
4. The following data must be entered using the parameters set by the Department:
 - a. Beneficiary Medicaid Identification Number
 - b. Beneficiary name
 - c. Date of Order
 - d. Vision Provider National Provider Identification Number (NPI)
 - e. Lens procedure codes
 - f. Frames procedure code
 - g. Frame name
 - h. Complete prescription including sphere, cylinder, axis, prism, lens material and segment design, add, and tint if appropriate
5. Within 30 days of completion of all pending orders following the end of the Contract term, the Contractor must surrender all history data to the State and/or current Contractor.

L. Notification to Beneficiary of All Negative Actions

1. Notification must be given to Beneficiary of all negative actions.
 - a. The Beneficiary notification of negative action must follow MDCH's notice requirements (Department Administrative Manual, General Administration, Legal Section, Department Hearing and Procedures).
2. The Contractor must send a negative action notice approved by the State to Medicaid and Medicaid/Children Special Health Care Services (CSHCS) dually enrolled Beneficiaries utilizing the appropriate denial statement.
 - a. An appeals form (DCH 0092 Hearing Request) and addressed stamped envelope provided by the State must accompany the negative action notice.
 - b. The negative action notice and appeal form must be sent to the Beneficiary at the time of the negative action.
 - c. A copy of the notice must be available to the Program Manager upon request.



3. The Contractor must send a negative action notice approved by the State to CSHCS Beneficiaries utilizing the appropriate denial statement.
 - a. A form designated by the State and addressed stamped envelope provided by the State must accompany the negative action notice.
 - b. The negative action notice and a form designated by the State must be sent to the Beneficiary at the time of the negative action.
 - c. A copy of the notice must be available to the Program Manager upon request.

M. Prior Authorization

1. Materials that require Prior Authorization must not be furnished by the Contractor without the approval of MDCH via the Vision Services Approval/Order form (DCH 0893).
2. Contractor is advised to reference the Medicaid Manual and Vision database.

N. Quality Assurance

1. The Contractor must provide and maintain a process that assures that the ophthalmic materials provided under this Contract are of a quality that meets professionally recognized ANSI standards.

The Contractor's Quality Control Team (QCT) is headed by John Jorgensen, the Quality Control and Process Improvement Manager.

Contractor's Quality Assurance Process:

The Contractor's QCT monitors quality and efficiency throughout the production process and in every department. The QCT reports any problems or possible improvements to the Lab Manager and adjustments and improvements are made quickly. This process both ensures the efficient daily processing of Contractor's more than 3,000 orders per day, and the prompt treatment of any order that requires special or especially expedited attention.

The Contractor's QCT identifies and tracks problems and finds solutions. In all situations, the Contractor first remedies the error and then strives to prevent it from happening again. To this end, Contractor's QCT prepares a weekly report identifying internal manufacturing errors and customer complaints. The QCT works with the Lab Manager to recommend and implement corrective action. These reports, which include recommendations for remedial actions, are given to the directors and discussed at regular Quality Control meetings.

The QCT gathers its information from a number of sources:

Returned Orders – The Contractor's Customer Service team examines all returned orders. If Customer Service determines that the products are returned for inferior quality or workmanship the order is recorded in that particular order notes section and the product is given to the QCT. The QCT adds the returned product to the regular reports and each returned order is discussed at the regular QCT meetings and a plan is implemented to prevent such error from happening again.

Lab Equipment – The Contractor monitors its defect rate by location and department. Reports are given to the department managers and the Lab Manager every morning and reviewed at the weekly managers meeting. Corrective actions are reported to the Lab Manager and the errors are used to focus training programs.

Old Orders The Contractor conducts monthly reviews of all orders that require more than five (5) days to complete. These orders are added to the regular reports and each delayed order is discussed at the regular QCT meetings. A plan is then implemented to prevent such error from happening again.



Customer Complaints – The Contractor maintains a formal complaint handling system. All customer complaints are logged, aggregated, and analyzed by the QCT and senior management to help improve Contractor's processes. Where required, they are reported to the State of Michigan.

The Quality Control Program

The Quality Control Team, headed up by its Manager, John Jorgensen, includes 4 surface inspectors, 12 finish inspectors, (several of whom are opticians), 1 production control person and 3 expeditors. Throughout the day and at various random locations, including the shipping department, throughout the process Contractor's Quality Control Team randomly checks orders to ensure order and Rx accuracy. The shipping department inspection point is a means to check Contractor's; a percentage of all inspectors' work is pulled from shipping and re-inspected as a means to inspect the inspectors. The Contractor's Quality Control Manager and Production Manager oversee this function.

To further maintain quality control, efficiency, and timeliness, the Contractor also employs the following procedures for the daily monitoring of Rx's as they move through the production process.

1. Online orders are automatically checked for eligibility as they are downloaded into the Contractor's system. Ineligible orders entered online are stopped and a denial message is returned to the provider via pop-up or e-mail; the system allows the provider to print both the denial message and the denied order. Orders received by mail or fax are entered into the computer and an eligibility match is completed. Ineligible orders are stopped and returned to the provider. Depending on contract requirements, recipients maybe also be sent a written notice of a denial.
2. Each eligible order is placed into a lab processing tray. All trays are bar coded. Bar code readers are located at more than 250 locations throughout the laboratory and every tray is read as it leaves a person, machine, and department. This allows Contractor to immediately locate specific jobs and confirm specific services have been added in specific departments. The system is also controlled with a process flow so if a required service was not added by a previous machine, the order will kick out of the processing que and stall until an inspector reviews the specific order.
3. Inspectors review each tray (frame, lenses and Rx) before it enters the lab process to ensure the proper materials will be used to produce the product.
4. Inspectors in each department check for data entry and manufacturing errors so mistakes can be located and problems solved immediately. Each machine has a unique bar code and all inspectors have individual bar codes that are attached to each Rx he/she inspects so errors found later can be traced back to the inspector and the lab machine operators.
5. The Contractor utilizes lens analyzers (Humphries, American Optical, Bausch & Lomb, Topcon, Gerber Coburn, and Veach) after the Surface Department completes its grinding and polishing functions and again after the Finish Department to check for axis, prism and power.
6. Two quality control inspectors check every job prior to sending it to Contractor's shipping department to ensure jobs meet cosmetic and FDA/ANSI standards before shipping.
7. Computer reports are run daily with the number of jobs in process by date so that the oldest jobs receive priority handling. Expeditors are assigned to ensuring these orders get pushed along through the process as quickly as possible.
8. Daily / Weekly / Monthly reports are run to indicate the job status of each specific order and to identify any problems that arise, such as backordered lenses or frames by the manufacturer. In these cases, the provider is notified and counseled about the possibility of selecting a suitable substitute product.
9. The Contractor conducts black light inspections of all lenses to locate manufacturing defects and ensure quality of all products. The Contractor creates a monthly report of defects by manufacturer for the Lab Manager to review to ensure the Contractor only purchases from the highest quality manufacturers.
10. The Contractor's customer service team examines all returned orders. If customer service determines that the products are returned for inferior quality or workmanship the order is recorded



in that particular order notes section and the product is given to the QCM. The QCM adds the returned product to the regular reports and each returned order is discussed at the regular QCT meetings and a plan is implemented to prevent such error from happening again.

11. The Contractor monitors its defect rate by location and department. Reports are given to the department managers and the Lab Manager every morning and reviewed at the weekly managers meeting. Corrective actions are reported to the Lab Manager and the errors are used to focus training programs.
12. The Contractor conducts monthly reviews of all orders that require more than four (4) days to complete. These orders are all added to the regular reports and each delayed order is discussed at the regular QCT meetings and a plan is implemented to prevent such error from happening again.
13. While Contractor's average turnaround time is 1 day or less, late orders are discussed daily. Providers are notified by telephone, mail or e-mail, depending on the problem and the provider. If a frame is on back order, the provider is notified and an alternate frame, when available, is suggested. If the patient desires to wait until the original frame is available, a notation is made on the Rx. The order is entered in the computer so it may be tracked. Similar procedures are followed for back order special lenses.
14. The customer service department handles all provider inquiries immediately. The computer system allows the customer service representatives to immediately identify the status of a job. On rare occasions where additional action is required, Contractor's Quality Control Team physically locates the tray, expedites the job, and informs the customer service representative to call the provider to report on the job's status. All inquiries are handled the same day, or if received after business hours, the following morning.
15. The Contractor's complaint handling system includes reviewing all complaints from providers and recipients, where possible, for purposes of identifying problems and implementing improvements in processing orders.

In the rare cases when errors occur and quality is affected, the Contractor first remedies the error and then strives to prevent it from happening again. To this end, Contractor's QCM prepares a weekly report identifying internal manufacturing errors and customer complaints. The QCM works with the QC Team and the Lab Manager to recommend corrective action. The Lab Manager works with the lab technicians to implement the corrective actions. These reports, which include recommendations for remedial actions, are given to the Directors and discussed at regular Quality Control meetings.

Moreover, the QCT is assisted by all Key Personnel identified Staffing Section 3.4 of this Contract.

2. The Contractor must maintain an external remake percentage of one percent (1%) or less for all orders pursuant to this Contract. External remakes are those lenses or frames that are returned to the Contractor by the Provider because of defects or faulty workmanship.
3. The Contractor must maintain a quality control program that assures that internal remakes will not affect the fabrication schedules required under this Contract and the quality of eyeglasses. Internal remakes are those lenses or frames where the need for a remake comes to the Contractor's attention before the product is shipped to the Provider.

O. Reserved

P. Claims and Billing

1. All claims submitted to MDCH must be by electronic transfer, unless it involves an adjustment of a previous payment. The automated system to be used for this process, whether the Contractor's or that of a billing agent, must meet the State's requirements for automated systems (see Exhibit D, General Security Requirements, and sections 31 and 33 of Standard Contract Terms).



2. The Contractor must be able to reconcile its billing based upon the paid, pend, or reject status of claims listed on the Remittance Advice by either:
 - a. Claim reference number, or
 - b. Prior Authorization number, Beneficiary name, and Beneficiary Medicaid identification number.
3. The Contractor must not bill for zero dollar amounts, unless the Contractor is crediting the State's account via a claim adjustment.
4. A claim must be initially submitted, received, and acknowledged by the State within 12 months from the date of the Remittance Advice on which that initial claim was rejected or paid incorrectly
5. Future resubmitted claims and claim adjustments must continue to be submitted, received and acknowledged by the State within each consecutive 12 month period from the date of the Remittance Advice on which the previous submission was rejected or paid incorrectly.
 - a. All claims must be resolved within 15 months of the expiration/termination of this Contract.
6. The State reserves the right to modify and revise billing codes as required. The Contractor shall be notified of such changes 30 days prior to implementation.
7. The date of service for billing purposes by the Contractor must be the Date of Order specified on the order form.

Q. Customer Service

1. The Contractor must provide a toll free telephone and fax line for use by personnel of the MDCH and Vision Providers.

At a minimum, all customer calls are acknowledged by the Contractor the same day and responded to within 24 hours.

- a. This line is to remain operational for 30 days after the termination of the Contract or until completion of all pending orders, unless the State authorizes in writing a shorter time.
 - b. This line must be open from 8:00am to 5:00pm Monday through Friday.
2. The Contractor must have an accessible customer service department with an individual specifically assigned to State of Michigan accounts.

Contractor's customer service lead is Mary Louise Shipley, and the entire customer service personnel team is trained to be familiar with the contract and able to help any customer.

The Contractor has a large enough customer service team to offer a live person for almost every caller with very limited on-hold waiting time. Incoming calls are not segregated in any way; all callers receive the same superior level of timely assistance that the Contractor offers all its customers.

1.2 Transition

- A. The Contractor must transfer history from the current Contractor.
- B. The Contractor must be able to format data to State specifications for transfer to the State Data Warehouse (see section 1.1.J).



The Contractor's Chief Information Officer must coordinate the data transfer based on specifications provided by the State.

- C. The Contractor must provide online access to the Program Manager to all data files including query and ad hoc tools.

The Contractor must provide access to Contractor's internal system network via a private VPN connection. Upon logging in the Program Manager is presented with a Michigan Medicaid "Data Views" application menu. This menu provides access to the following applications: (1) Open (unbilled) claim inquiry; (2) Original 271 eligibility verification data view; (3) Eligibility message inquiry by recipient ID; (4) Claim payment info inquiry; (5) Michigan mail-back history inquiry.

2. Acceptance

2.1 Acceptance, Inspection and Testing

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

The Contractor must meet or exceed all requirements specified in Exhibit A, section 1.1., Work and Deliverables.

3. Staffing

3.1 Contractor Representative

- A. The Contractor must appoint one individual, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

Contractor Representative:

Mary Louise Shipley

- B. The Contractor must notify the Contract Administrator and Program Manager at least 10 calendar days before removing or assigning a new Contractor Representative.

3.2 Customer Service Toll-Free Number

- A. The Contractor must specify its toll-free number for the State to make contact with the Contractor Representative.

Contractor's Toll-Free Phone Number:

(888) 522-2020

ext. 1308 - Mary Louise Shipley

ext. 1318 - Karla Kondila

ext. 1311 – Mary Anne O'Toole

- B. The Contractor Representative must be available for calls during the hours of 8 am to 5 pm EST.

3.3 Work Hours

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

The Contractor's business hours are extended when necessary, depending on demand. Dawn Friedkin and Mary Anne O'Toole are available via cell phone after hours and on weekends.

3.4 Key Personnel

- A. The Contractor must appoint the individuals specified below who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 24 hours.

1. Program Manager



Contractor's Program Manager:

Mary Anne O'Toole
 Director of Contract Management and Customer Service

Contractor's Assistant Program Manager:

Mary Ellen Bilas
 Contracting Team Project Manager

- a. The Program Manager must be the person that will have ongoing contact with the State's Program Manager and have the responsibility to provide the reports required and be able to solve any problems that arise during this Contract.
- b. Contractor's physical location during the time they are engaged in the work.

Contractor's Program Manager and entire Program Management Team are located in Youngstown, Ohio.

- c. Amount of dedicated management time anticipated for the Program Manager for this Contract.

Mary Anne O'Toole, Director of Customer Service and Contract Management	10%
Mary Ellen Bilas, Project Coordinator	15%
Mary Louise Shipley, Customer Service Representative/Michigan Lead	95%
Karla Kondalis, Manager of Customer Service	5%
Dawn Friedkin, President	5%
	130%

2. Head of Lab

Contractor's Head of Lab:

Rodney Remsey, LDO
 Director of Laboratory Operations

- a. Amount of time anticipated for the Head of Lab for this Contract.

The Contractor's 10% surge capacity will more than adequately cover the possible 5% increase in volume due to the Healthy Michigan Plan.

3. Additional Key Personnel

- a. Name and title of additional Key Personnel required to perform the services of this Contract.

Contractor's Key Personnel			
Title	Name	Optical	Management
President	Dawn Friedkin	31 years	24 years
Director, Accounting & Administration	Martin Willingale	3 years	33 years
Director, Contracts & Customer Service	Mary Anne O'Toole	8 years	23 years
Director, Laboratory Operations	Rodney Remsey, LDO	27 years	23 years
Director, Information Technology & CIO	Steve Mermer	20 years	23 years
Manager, Quality/Process Improvement	John Jorgensen	21 years	21 years
Manager, Customer Service	Karla Kondalis	24 years	2 years
Manager, IT Solutions	Lisa McCauley	28 years	14 years
Manager, Finishing Lab	Tina Colburn, LDO	23 years	20 years
Manager, Surface Lab	Harold Sample, LDO	27 years	22 years
Manager, Stock Room	Jackie Breese	29 years	28 years
Manager, Shipping & Receiving	Vicky Tyburski	28 years	24 years



Contractor's Key Personnel			
Title	Name	Optical	Management
Manager, Contracts	Mary Ellen Bilas	1 years	20 years
Manager, Compliance & Reconciliation	Amy Barnes	18 years	23 years
Customer Service Rep./Michigan Lead	Mary Louise Shipley	5 years	2years

b. Amount of time anticipated for each of the additional Key Personnel for this Contract.

Title	Name	% of Time
Director, Accounting & Administration	Martin Willingale	5%
Director, Information Technology & CIO	Steve Mermer	5%
Manager, Quality & Process Improvement	John Jorgensen	5%
Manager, IT Solutions	Lisa McCauley	5%
Manager, Finishing Lab	Tina Colburn, LDO	5%
Manager, Surface Lab	Harold Sample, LDO	5%
Manager, Stock Room	Jackie Breese	5%
Manager, Shipping & Receiving	Vicky Tyburski	5%
Manager, Compliance & Reconciliation	Amy Barnes	5%

- B. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, the Contractor must notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.
- C. The Contractor must not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms.
- D. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor must issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):
 1. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount must be \$25,000.00 per individual if the Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.
 2. If the Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, the Contractor must credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow

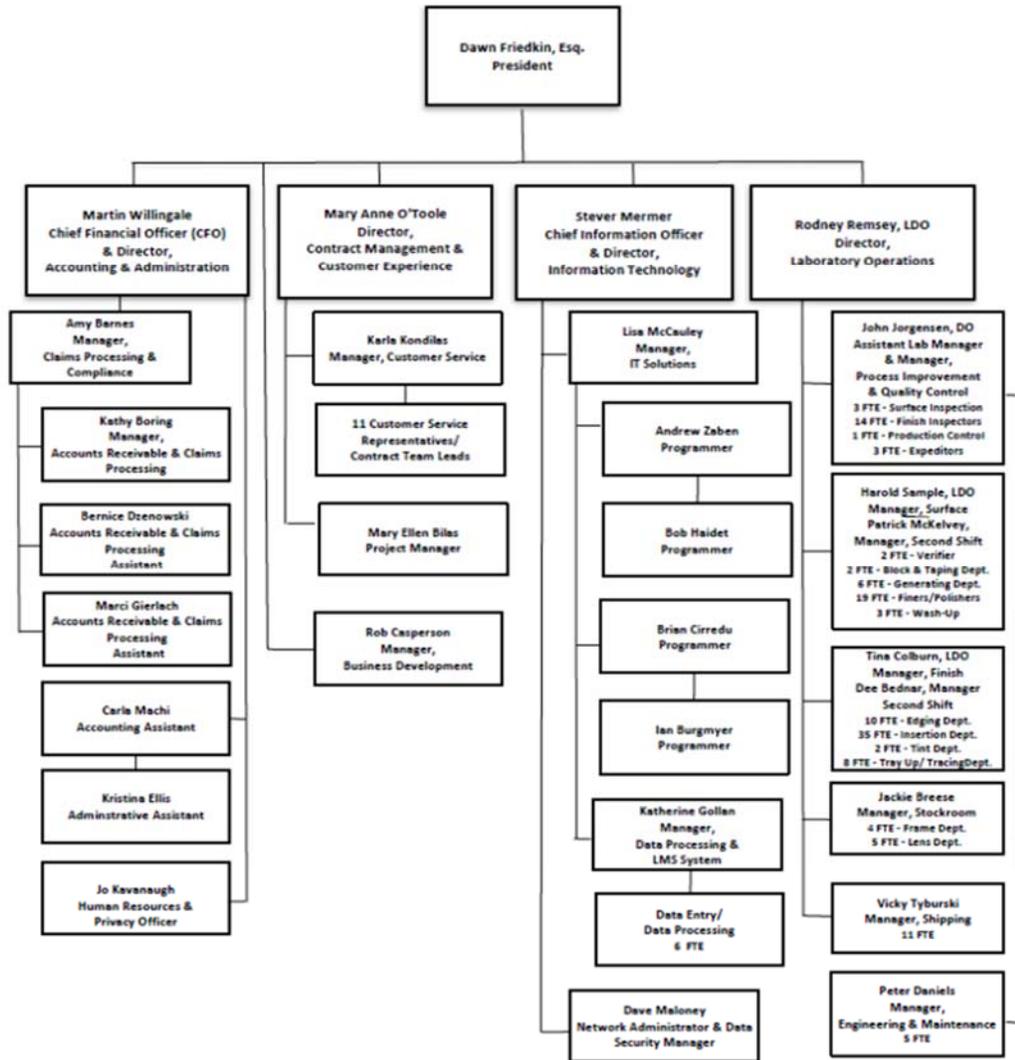


period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

3. The Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

3.5 Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.



3.6 Disclosure of Subcontractors

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



1. 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.
2. The relationship of the subcontractor to the Contractor.
3. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
4. A complete description of the Contract Activities that will be performed or provided by the subcontractor.
5. Of the total bid, the price of the subcontractor's work.

3.7 Security

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

4. Project Management

4.1 Project Plan

- A. The Contractor's project plan must identify the following:
 - Contact Personnel
 - Project Management Process
 - Project breakdown identifying sub-projects, tasks, and resources required
 - Process for addressing issues/changes
- B. The Contractor must carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Contract start date, the Contractor must submit a final project plan to the Program Manager for approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the Contract, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

4.2 Meetings

The Contractor must attend meetings as requested by the Program Manager.

4.3 Reporting

- A. The Contractor must develop methodologies and data systems for data transfer and reporting to the State (See Exhibit D, General Security Requirements, and sections 31 and 33 of Standard Contract Terms).
- B. The State reserves the right to change reporting structure or add to reporting structure when information is required due to administrative changes or negative findings from an onsite review. The State reserves the right to modify or add reports as needed upon 30 days' notice to the Contractor.
 1. Daily Report:
 - a. The Contractor must transmit to the Program Manager a daily report showing all orders of glass, plastic, polycarbonate, and high power prescriptions that surpasses the allotted delivery times specified.
 - b. The Daily Report must contain:
 - 1) The beneficiary name
 - 2) The Medicaid Identification Number
 - 3) The date received
 - 4) The number of days over required time
 - 5) The reason for delay



- 6) A specific agreed upon identifier showing all orders for glass, plastic, polycarbonate, and high power prescriptions that exceeds the required times
 - 7) Whether the Contractor is seeking consideration for a time extension.
2. Monthly Production Report
- a. The Contractor must transmit to the Program Manager a monthly production report, by the tenth day of each month, a report showing the utilization of services for the preceding month.
 - b. The Monthly Report must contain:
 - 1) The total number of orders received during the reporting period
 - 2) The number of all frames shipped by frame name
 - 3) The number of lenses shipped by single vision, bifocal, trifocal, high power, plastic, glass, etc. by procedure code and modifier if applicable
 - 4) The Number of orders processed reported by initial, diopter changes and replacement for the categories of glass, plastic, polycarbonate, and high power lenses
 - 5) The number of orders held due to the lack of inventory
 - 6) The monthly volume and dollar amount by code; including the year-to-date totals.

4.4 Project Control

- A. The State reserves the right to inspect Contractor's laboratory facilities at any time during the Contract period for determination of compliance to procedures and standards as outlined in this Contract.
- B. The Contractor must provide, upon the request of the Program Manager documentation that will enable the State to monitor and assure the quality of the Contractor's performance of various activities, such as the Contractor's monitoring of diopter criteria and monitoring of frequency limits.
- C. The Contractor must provide all required reports and administrative services at no additional expense to the State.
- D. The State will conduct two reviews per year at the Contractor's laboratory location. At these onsite reviews, the State will review orders to determine if they meet the requirements of this Contract and Medicaid policy.
 1. If the Contractor has more than one laboratory location and/or administrative location which are involved in fulfilling these Contract requirements, the State at its discretion will determine which facilities to review.
 2. These onsite reviews shall be for a length of time, not to exceed three full workdays for each review.
 3. The Contractor for each review must cover all travel, lodging and meal expenses for up to three State of Michigan employees and agents.
 4. Additional site visits may be required, at the expense of the Contractor, if substantial inconsistencies or significant noncompliance requires additional review.
- E. Prior to their use, the Program Manager must approve all forms/correspondence and revisions to forms/correspondence sent by the Contractor to Providers.
- F. Prior to mailing, or posting on the Contractor's website, the Program Manager must approve all general correspondence and/or information sent to Providers regarding services and products available under this Contract.

5. Ordering

5.1 Authorizing Document

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

6. Liquidated Damages



The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that liquidated damages will be charged to the Contractor for failure to meet the requirements set in the Contract (section 1.0 Requirements) for:

- Fabrication Schedules, Replacement Policy, Quality of Frames and Lenses, and Non-compliance with all policies and bulletins or failure to meet any other State or Federal mandate in regards to the Contract. Charges must be, at a minimum, the exact amount of any and all payments made by the State in regards to failure to meet the requirements stated in this Contract. Accordingly, in the event of such damages, at the written direction of the State, the Contractor must pay the State the indicated liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within 15 days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract.
- For audits, liquidated damages will be assessed and subject to Extrapolation on all orders within the Audit Sample which are non-compliant with requirements specified in this Contract without accepted documentation for delay or reason. Liquidated damages will be set at 100% for orders in non-compliance with State requirements.
- The State will notify the Contractor in writing of any claim for liquidated damages on or before the date the State deducts such sums from money payable to the Contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.

The Contractor shall not be liable for liquidated damages when, in the opinion of the State, incidents or delays result directly from causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but not restricted to, acts of God, fires, floods, epidemics, and labor unrest; but in every case, the delays must be beyond the control and without the fault or negligence of the Contractor.

7. HIPAA Business Associate Agreement Addendum

At the time of Contract execution, the Contractor ("Business Associate") must sign and return a Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement Addendum (Exhibit E) to the Contract Administrator individual specified in Standard Contract Terms (sections 2. Notices) of the Contract. The Business Associate performs certain services for the State ("Covered Entity") under the Contract that requires the exchange of information including protected health information under the HIPAA of 1996, as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). The HIPAA Business Associate Agreement Addendum establishes the responsibilities of both parties regarding HIPAA-covered information and ensures the underlying contract complies with HIPAA.



**EXHIBIT C
PRICING**

Item Listing for Frames

1. Pricing includes all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling).
2. All ophthalmic materials not specifically covered by the Contract must, when authorized by the Program Manager, be supplied, if available, at the Contractor's usual and customary wholesale pricing policy.

Line No.	Description	Price
	<u>Women's</u>	
1	Candia (Limited Edition)	\$6.05
2	Dazzle (Modern)	\$7.43
3	Electra (Zimco)	\$8.48
4	Monica (Modern)	\$7.16
5	B4154 (unisex) (Hart)*	\$8.06
6	Aries (unisex) (Modern)*	\$7.43
7	Finale (Modern)	\$7.43
8	Certain (Modern)	\$7.43
9	Beth (Modern)	\$8.06
10	Eileen (Modern)	\$8.06
11	Lisa (Modern)	\$8.06
12	Lilac (Capri)	\$8.06
13	US 56 (Capri)	\$7.43

	<u>Men's</u>	
14	Tony (Limited Edition)	\$8.06
15	314 (Limited Edition)	\$6.68
16	Dillon (Modern)	\$8.06
17	Doug (Modern)	\$7.43
18	Hunter (Modern)	\$7.43
19	Yank (Criss)	\$7.62
20	Tomorrow (unisex) (Modern)*	\$7.16
21	Exclusive 120 (COI)	\$8.06
22	Ivy (Capri)	\$8.06
23	Jazz (Modern)	\$8.06
24	PT 48 (Capri)	\$7.43
25	UM 70 (Capri)	\$7.43



26	James (Modern)	\$8.06
27	Slick (Modern)	\$8.06

	<u>Children's</u>	
28	Downtown (unisex) (Limited Edition)	\$6.68
29	Dynamite (Modern)*	\$7.16
30	Manhattan (Limited Edition)	\$5.63
31	Mainstreet 415 (Hart)	\$8.07
32	Cheerful (Modern)	\$7.43
33	Pumpkin (Modern)	\$7.61
34	304 (Limited Edition)	\$6.68
35	Lollipop-cable only (Modern)	\$31.90
36	Ninja (Modern)	\$7.43
37	Wiggle (Modern)	\$7.43

	<u>Safety</u>	
38	071 (Onguard)	\$16.80
39	093 (Onguard)	\$17.10

	<u>Special Needs-DX specific only PA required</u>	
40	Model 1 (Specs4us)	\$30.00
41	Model 2 (Specs4us)	\$30.00
42	Model 3 (Specs4us)	\$30.00
43	Model 4 (Specs4us)	\$30.00
44	Model 5 (Specs4us)	\$30.00
45	Model 6 (Specs4us)	\$30.00
46	Model 7 (Specs4us)	\$30.00
47	Model 8 (Specs4us)	\$30.00
48	Model 9 (Specs4us)	\$30.00
49	Model 10 (Specs4us)	\$30.00
50	Model 11 (Specs4us)	\$30.00
51	Model 12 (Specs4us)	\$30.00
52	Model 13 (Specs4us)	\$30.00
53	Model 14 (Specs4us)	\$30.00

Appropriate Sizes for Age*



**Item Listing for Lenses
(Including Miscellaneous Items)**

Codes	Description	Base	Prices Per Lens			
			Glass	Plastic	Polycarb	High Index Plastic
V2100	Sphere, single vision, plano to plus or minus 4.00D		<u>4.80</u>	<u>4.80</u>	<u>8.64</u>	<u>X.XX</u>
V2101	Sphere, single vision, plus or minus 4.12D to plus or minus 7.00D		<u>5.57</u>	<u>5.57</u>	<u>9.72</u>	<u>X.XX</u>
V2102	Sphere, single vision, plus or minus 7.12D to plus or minus 20.00D		<u>X.XX</u>	<u>8.41</u>	<u>10.26</u>	<u>13.50</u>
V2103	Spherocylinder, single vision, plano to plus or minus 4.00D sphere, 0.12D to 2.00D cylinder		<u>4.91</u>	<u>4.91</u>	<u>8.85</u>	<u>X.XX</u>
V2104	Spherocylinder, single vision, plano to plus or minus 4.00D sphere, 2.12D to 4.00D cylinder		<u>7.07</u>	<u>7.07</u>	<u>10.12</u>	<u>X.XX</u>
V2105	Spherocylinder, single vision, plano to plus or minus 4.00D sphere, 4.25D to 6.00D cylinder		<u>7.95</u>	<u>7.95</u>	<u>10.26</u>	<u>X.XX</u>
V2106	Spherocylinder, single vision, plano to plus or minus 4.00D sphere, over 6.00D cylinder		<u>0.00</u>	<u>8.11</u>	<u>10.81</u>	<u>X.XX</u>
V2107	Spherocylinder, single vision, plus or minus 4.25D to plus or minus 7.00D sphere, 0.12D to 2.00D cylinder		<u>5.60</u>	<u>5.60</u>	<u>9.75</u>	<u>X.XX</u>
V2108	Spherocylinder, single vision, plus or minus 4.25D to plus or minus 7.00D sphere 2.12D to 4.00D cylinder		<u>0.00</u>	<u>7.50</u>	<u>10.61</u>	<u>X.XX</u>
V2109	Spherocylinder, single vision, plus or minus 4.25D to plus or minus 7.00D sphere, 4.25D to 6.00D cylinder		<u>0.00</u>	<u>8.14</u>	<u>9.47</u>	<u>X.XX</u>
V2110	Spherocylinder, single vision, plus or minus 4.25D to plus or minus 7.00D sphere, over 6.00D cylinder		<u>0.00</u>	<u>8.12</u>	<u>11.22</u>	<u>X.XX</u>
V2111	Spherocylinder, single vision, plus or minus 7.25D to plus or minus 12.00D sphere, 0.12D to 2.00D cylinder		<u>X.XX</u>	<u>8.09</u>	<u>10.67</u>	<u>13.81</u>
V2112	Spherocylinder, single vision, plus or minus 7.25D to plus or minus 12.00D sphere, 2.12D to 4.00D cylinder		<u>X.XX</u>	<u>8.36</u>	<u>10.19</u>	<u>13.81</u>

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V2113	Spherocylinder, single vision, plus or minus, 7.25D to plus or minus 12.00D sphere, 4.12D to 6.00D cylinder	Base	<u>X.XX</u>	<u>8.75</u>	<u>10.26</u>	<u>15.80</u>
V2114	Spherocylinder, single vision, sphere over plus or minus 12.00D (with any cylinder)	Base	<u>X.XX</u>	<u>17.05</u>	<u>10.97</u>	<u>7.01</u>
V2115	Lenticular (myodisc), single vision	Base	<u>X.XX</u>	<u>14.69</u>	<u>X.XX</u>	<u>X.XX</u>
V2121	Lenticular, aspheric, single vision	Base	<u>X.XX</u>	<u>19.94</u>	<u>X.XX</u>	<u>X.XX</u>
V2199	Not otherwise classified, single vision	Base	*	*	*	*
V2200	Sphere, bifocal, plano to plus or minus 4.00D	Base	<u>6.73</u>	<u>6.73</u>	<u>11.77</u>	<u>X.XX</u>
V2201	Sphere, bifocal, plus or minus 4.12D to plus or minus 7.00D	Base	<u>0.00</u>	<u>7.80</u>	<u>11.73</u>	<u>X.XX</u>
V2202	Sphere, bifocal, plus or minus 7.12D to plus or minus 20.00D	Base	<u>X.XX</u>	<u>9.18</u>	<u>14.53</u>	<u>19.56</u>
V2203	Spherocylinder, bifocal, plano to plus or minus 4.00D sphere, 0.12D to 2.00D cylinder	Base	<u>7.73</u>	<u>7.73</u>	<u>11.50</u>	<u>X.XX</u>
V2204	Spherocylinder, bifocal, plano to plus or minus 4.00D sphere, 2.12D to 4.00D cylinder	Base	<u>7.82</u>	<u>7.82</u>	<u>11.09</u>	<u>X.XX</u>
V2205	Spherocylinder, bifocal, plano to plus or minus 4.00D sphere, 4.25D to 6.00D cylinder	Base	<u>7.98</u>	<u>7.98</u>	<u>11.64</u>	<u>X.XX</u>
V2206	Spherocylinder, bifocal, plano to plus or minus 4.00D sphere, over 6.00D cylinder	Base	<u>0.00</u>	<u>7.97</u>	<u>0.00</u>	<u>X.XX</u>
V2207	Spherocylinder, bifocal, plus or minus 4.25D to plus or minus 7.00D sphere, 0.12D to 2.00D cylinder	Base	<u>7.80</u>	<u>7.80</u>	<u>11.79</u>	<u>X.XX</u>
V2208	Spherocylinder, bifocal, plus or minus 4.25D to plus or minus 7.00D sphere, 2.12D to 4.00D cylinder	Base	<u>7.89</u>	<u>7.89</u>	<u>10.89</u>	<u>X.XX</u>
V2209	Spherocylinder, bifocal, plus or minus 4.25D to plus or minus 7.00D sphere, 4.25D to 6.00D cylinder	Base	<u>0.00</u>	<u>7.83</u>	<u>8.63</u>	<u>X.XX</u>
V2210	Spherocylinder, bifocal, plus or minus 4.25D to plus or minus 7.00D sphere, over 6.00D cylinder	Base	<u>0.00</u>	<u>7.70</u>	<u>0.00</u>	<u>X.XX</u>

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V2211	Spherocylinder, bifocal, plus or minus 7.25D to plus or minus 12.00D sphere, 0.12D to 2.00D cylinder	Base	<u>X.XX</u>	<u>7.87</u>	<u>16.08</u>	<u>20.30</u>
V2212	Spherocylinder, bifocal, plus or minus 7.25D to plus or minus 12.00D sphere, 2.12D to 4.00D cylinder	Base	<u>X.XX</u>	<u>8.03</u>	<u>11.64</u>	<u>25.13</u>
V2213	Spherocylinder, bifocal, plus or minus 7.25D to plus or minus 12.00D sphere, 4.25D to 6.00D cylinder	Base	<u>X.XX</u>	<u>7.73</u>	<u>13.14</u>	<u>32.52</u>
V2214	Spherocylinder, bifocal, sphere over plus or minus 12.00D (with any cylinder)	Base	<u>X.XX</u>	<u>34.41</u>	<u>8.63</u>	<u>0.00</u>
V2219	Bifocal segment width over 28mm	Add-on	<u>2.88</u>	<u>2.88</u>	<u>2.88</u>	<u>2.88</u>
V2220	Bifocal add over 3.25D	Add-on	<u>2.88</u>	<u>2.88</u>	<u>2.88</u>	<u>2.88</u>
V2221	Lenticular, aspheric, bifocal	Base	<u>X.XX</u>	<u>15.00</u>	<u>X.XX</u>	<u>X.XX</u>
V2299	Specialty bifocal (by report)		*	*	*	*
V2300	Sphere, trifocal, plano to plus or minus 4.00D	Base	<u>9.32</u>	<u>9.32</u>	<u>X.XX</u>	<u>X.XX</u>
V2301	Sphere, trifocal, plus or minus 4.12D to plus or minus 7.00D	Base	<u>0.00</u>	<u>8.97</u>	<u>X.XX</u>	<u>X.XX</u>
V2302	Sphere, trifocal, plus or minus 7.12D to Plus or minus 20.00D	Base	<u>X.XX</u>	<u>6.60</u>	<u>X.XX</u>	<u>X.XX</u>
V2303	Spherocylinder, trifocal, plano to plus or minus 4.00D sphere, 0.12D to 2.00D cylinder	Base	<u>9.16</u>	<u>9.16</u>	<u>X.XX</u>	<u>X.XX</u>
V2304	Spherocylinder, trifocal, plano to plus or minus 4.00D sphere, 2.12D to 4.00D cylinder	Base	<u>0.00</u>	<u>9.16</u>	<u>X.XX</u>	<u>X.XX</u>
V2305	Spherocylinder, trifocal, plano to plus or minus 4.00D sphere, 4.25D to 6.00D cylinder	Base	<u>0.00</u>	<u>8.90</u>	<u>X.XX</u>	<u>X.XX</u>
V2306	Spherocylinder, trifocal, plano to plus or minus 4.00D sphere, over 6.00D cylinder	Base	<u>0.00</u>	<u>9.24</u>	<u>X.XX</u>	<u>X.XX</u>
V2307	Spherocylinder, trifocal, plus or minus 4.25D to plus or minus 7.00D sphere, 0.12D to 2.00D cylinder	Base	<u>9.24</u>	<u>9.24</u>	<u>X.XX</u>	<u>X.XX</u>
V2308	Spherocylinder, trifocal, plus or minus 4.25D to plus or minus 7.00D sphere 2.12D to 4.00D cylinder	Base	<u>0.00</u>	<u>9.54</u>	<u>X.XX</u>	<u>X.XX</u>

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V2309	Spherocylinder, trifocal, plus or minus 4.25D to plus or minus 7.00D sphere, 4.25D to 6.00D cylinder	Base	<u>0.00</u>	<u>6.60</u>	<u>X.XX</u>	<u>X.XX</u>
V2310	Spherocylinder, trifocal, plus or minus 4.25D to plus or minus 7.00D sphere over 6.00D cylinder	Base	<u>0.00</u>	<u>0.00</u>	<u>X.XX</u>	<u>X.XX</u>
V2311	Spherocylinder, trifocal, plus or minus 7.25D to plus or minus 12.00D sphere 0.12D to 2.00D cylinder	Base	<u>X.XX</u>	<u>10.77</u>	<u>X.XX</u>	<u>X.XX</u>
V2312	Spherocylinder, trifocal, plus or minus 7.25D to plus or minus 12.00D sphere, 2.12D to 4.00D cylinder	Base	<u>X.XX</u>	<u>11.01</u>	<u>X.XX</u>	<u>X.XX</u>
V2313	Spherocylinder, trifocal, plus or minus 7.25D to plus or minus 12.00D sphere, 4.25D to 6.00D cylinder	Base	<u>X.XX</u>	<u>6.60</u>	<u>X.XX</u>	<u>X.XX</u>
V2314	Spherocylinder, trifocal, sphere over plus or minus 12.00D (with any cylinder)	Base	<u>X.XX</u>	<u>6.60</u>	<u>X.XX</u>	<u>X.XX</u>
V2320	Trifocal add over 3.25D	Add-on	<u>2.88</u>	<u>2.88</u>	<u>X.XX</u>	<u>X.XX</u>
V2399	Specialty trifocal (by report)		*	*	*	*
V2410	Variable asphericity lens, single vision full field	Base	<u>X.XX</u>	<u>16.41</u>	<u>X.XX</u>	<u>X.XX</u>
V2430	Variable asphericity lens, bifocal, Full	Base	<u>X.XX</u>	<u>18.30</u>	<u>X.XX</u>	<u>X.XX</u>
V2499	Variable sphericity lens, other type		*	*	*	*
V2700	Balance lens	Base	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
V2710	Slab-off prism	Add-on	<u>X.XX</u>	<u>44.79</u>	<u>X.XX</u>	<u>X.XX</u>
V2715	Prism	Add-on	<u>2.55</u>	<u>2.55</u>	<u>2.55</u>	<u>2.55</u>
V2718	Press-on lens, Fresnell prism	Base	<u>2.55</u>	<u>2.55</u>	<u>2.55</u>	<u>2.55</u>
V2744	Tint, photochromatic	Add-on	<u>6.40</u>	<u>X.XX</u>	<u>X.XX</u>	<u>X.XX</u>
V2745	Tint, any color, Solid, or gradient (not photochromatic)	Add-on	<u>1.44</u>	<u>1.44</u>	<u>1.44</u>	<u>1.44</u>
V2755	U-V coating	Add-on	<u>3.84</u>	<u>3.84</u>	<u>3.84</u>	<u>3.84</u>
V2756	Eyeglass case	Add-on	<u>0.27</u>	<u>0.27</u>	<u>0.27</u>	<u>0.27</u>
V2799	Vision service, miscellaneous		*	*	*	*



S0581 Non-standard lens (industrial thickness) Add-on 1.92 1.92 1.92 1.92

- Notes:
- 1) High index plastic 1.60, Modifier U2
 - 2) Code V2718 includes mounting when ordered
 - 3) Bifocals with segments 28mm and under to include Round 22 and FT28
 - 4) Bifocals with segments over 28mm to include FT-35 and Executive
 - 5) Trifocals required: FT-7x28
 - 6) Codes V2199, V2299, V2399, V2499, and V2799 indicated by * sign will be individually priced upon review
 - 7) Polycarbonate lens modifier U1



Exhibit D General Security Requirements

On award of the Contract, the Contractor must comply with State and federal statutory and regulatory requirements, and rules; National Institute of Standards and Technology (NIST) publications; Control Objectives for Information and Related Technology (COBIT); all other industry specific standards; national security best practices and all requirements herein.

The Contractor must perform annual testing of all security control requirements to determine they are working as intended. Annual certification must be provided in writing to the CCI or designee in the form of a Service Organization Controls (SOC) 2, Type II review or similar audit report upon award.

A. Governing Security Standards and Publications

The State of Michigan information is a valuable asset that must be protected from unauthorized disclosure, modification, use, or destruction. Prudent steps must be taken to ensure that its integrity, confidentiality, and availability are not compromised.

The Contactor must collect, process, store, and transfer State personal, confidential, or sensitive data in accordance with the Contract, State of Michigan policies, and the laws of the State of Michigan and the United States, including, but is not limited to the following:

- The Michigan Identity Theft Protection Act, MCL 445.61 et seq;
- The Michigan Social Security Number Privacy Act, MCL 445.82 et seq.
- Family Educational Rights and Privacy Act

State of Michigan Policies

- The Contractor must comply with the State of Michigan information technology standards <http://www.michigan.gov/dmb/0,1607,7-150-56355-107739--,00.html>.

B. Security Risk Assessment

The Contractor must conduct assessments of risks and identify the damage that could result from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the State. Security controls should be implemented based on the potential risks. The Contractor must ensure that reassessments occur whenever there are significant modifications to the information system and that risk assessment information is updated.

C. System Security Plan

The Contractor must develop and implement a security plan that provides an overview of the security requirements for the information system. If a security plan does not exist, the Contractor must provide a description of the security controls planned for meeting those requirements. The security plan must be reviewed periodically and revised to address system/organizational changes or problems.

D. Network Security

The Contractor is responsible for the security of and access to State data, consistent with legislative or administrative restrictions. Unsecured operating practices, which expose other connected networks to malicious security violations, are not acceptable. The Contractor must coordinate with DTMB to enter the proper pointers into the State of Michigan infrastructure.

E. Data Security

The Contractor has the responsibility to protect the confidentiality, integrity, and availability of State of Michigan data that is generated, accessed, modified, transmitted, stored, disposed, or used by the system, irrespective of the medium on which the data resides and regardless of format (such as in electronic, paper or other physical form).



The Contractor must:

1. Process the personal data in accordance with the personal data protection laws of the State of Michigan and the United States.
2. Have in place appropriate technical and organizational internal and security controls to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected. Technical and organizational security controls must be implemented that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, presented by the processing.
3. Provide secure and acceptable methods of transmitting personal, confidential or sensitive information over telecommunication devices such as data encryption (128 bit minimum), Secure Socket Layer (SSL), dedicated leased line or Virtual Private Network (VPN).
4. Supply the State with information associated with security audits performed in the last three years upon award.
5. Have in place procedures so that any third party it authorizes to have access to the personal data, including processors, will respect and maintain the confidentiality, integrity, and availability of the data upon award.
6. Process the personal, confidential, and sensitive data only for purposes described in the Contract.
7. Identify to the State a contact point within its organization authorized to respond to enquiries concerning processing of the personal, confidential or sensitive data, and will cooperate in good faith with the Department.
8. Not disclose or transfer the personal, confidential, or sensitive data to a third party unless it is approved under this Contract.
9. Not use data transferred by the State as a result of this Contract for marketing purposes.

F. Media Protection

- The Contractor must implement measures to provide physical and environmental protection and accountability for tapes, diskettes, printouts, and other media containing State personal, confidential, and sensitive information to prevent the loss of confidentiality, integrity, or availability of information including data or software, when stored outside the system. This can include storage of information before it is input to the system and after it is output.
- The Contractor must ensure that only authorized users have access to information in printed form or on digital media removed from the information system, physically control and securely store information media, both paper and digital, restrict the pickup, receipt, transfer, and delivery of such media to authorized personnel.

G. Media Destruction and Disposal

The Contractor must sanitize or destroy information system digital media containing personal, confidential, or sensitive information before its disposal or release for reuse to prevent unauthorized individuals from gaining access to and using information contained on the media.



- Personal, confidential, or sensitive information must be destroyed by burning, mulching, pulverizing, or shredding. If shredded, strips should not be more than 5/16-inch, microfilm should be shredded to affect a 1/35-inch by 3/8-inch strip, and pulping should reduce material to particles of one inch or smaller.
- Disk or tape media must be destroyed by overwriting all data tracks a minimum of three times or running a magnetic strip over and under entire area of disk at least three times. If the CD, DVD, or tape cannot be overwritten it must be destroyed in an obvious manner to prevent use in any disk drive unit and discarded. Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal. Electronic data residing on any computer systems must be purged based on retention periods required by the State.

H. Access Control

The Contractor must limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems) and to the types of transactions and functions that authorized users are permitted to exercise. Access must be immediately removed when a staff changes job duties or leaves the employment.

Authentication Process

Authentication is the process of verifying the identity of a user. Authentication is performed by having the user enter a user name and password in order to access the system.

To help protect information from unauthorized access or disclosure, users must be identified and authenticated per the table below prior to accessing confidential or sensitive information, initiating transactions, or activating services.

Publicly available information such as the mother’s maiden name, birth date, and address as the sole authenticator is not a secure means of authentication and should not be used.

Automatic user logons are prohibited. Device-to-device logons must be secured (preferably using client certificates or password via tunneled session). For certain implementations, source restrictions (sign-on can occur only from a specific device) provide a compensating control, in addition to the ID and password.

Authentication information (e.g., a password or PIN) must never be disclosed to another user or shared among users.

The authentication process is limited to three unsuccessful attempts and must be reinstated by the authorized personnel (preferably the System security Administrator). User accounts should be systematically disabled after 90 days of inactivity and must be deleted after one year of inactivity.

Password Requirements

The purpose of a password is to authenticate a user accessing the system and restrict use of a userID only to the assigned user. To the extent that the functionality is supported within the technology or product, the controls listed must be implemented.

These following controls or content rules apply at any point where a new password value is to be chosen or assigned. These rules must be enforced automatically as part of a new password content checking process:



Password Property	Value
Minimum Length	Eight characters with a combination of alpha, numeric, and special characters
Composition	<ul style="list-style-type: none"> • At least two numeric characters (0 through 9), neither of which may be at the beginning or the end of the password • A combination of two upper (A through Z) and lower case (a through z) letters • Special characters (!, @, #, \$, %, ^, &, *, (,), +, =, /, <, >, ?, ,, : , ; , \) • UserID in password is not allowed
Expiration Requirement (Maximum Password Age):	30 days
Revocation	Passwords should be revoked after three failed attempts (the State strongly supports password revocation after three failed attempts if system allows). Passwords should be systematically disabled after 90 days of inactivity to reduce the risk of compromise through guessing, password cracking or other attack and penetration methods.
Temporary passwords	<ul style="list-style-type: none"> • Must be randomly chosen or generated • System must force the user to change the temporary password at initial login
Change process	<p>System must force user to:</p> <ul style="list-style-type: none"> • Confirm their current password/PIN, • Reenter current password/PIN • Create a new password/PIN • Reenter new password/PIN <p>System must prevent users from being able to consecutively change their password value in a single day (The goal is to prevent recycling through password history records to reuse an earlier-used password value)</p>
Login process	Password/PIN must not appear on the screen during the login process (The exception to this is during selection of a machine-generated password).
Encryption of passwords/PINs	Passwords must be stored and transmitted with a minimum of 128-bit encryption. Passwords must be masked when entered on any screen
Compromise of password/PIN	Must be changed immediately
Forgotten password/PIN	Must be reset by authorized person (system Security Administrator)
Current user password/PIN	Must not be maintained or displayed in any readable format on the system
Audit logs	Maintain a record of when a password was changed, deleted, or revoked. The audit trail shall capture all unsuccessful login and authorization attempts for a one year period.
Password history	Keep a password history and perform a check against the history to verify the password has not been used for a minimum of one year
Privileged account access (e.g. supervisor or root)	Security administrator must change the password for that account immediately when user changes responsibilities



I. System Security Application Control

Application controls apply to individual computer systems and may include such controls as data origin, input controls, processing controls, output controls, application access controls, application interfaces, audit trail controls, and system documentation. Application controls consist of mechanisms in place over each separate computer system to ensure authorized data is processed completely, accurately, and reliably. The Contractor is responsible for ensuring application controls are in place and functioning properly within their organization. Ongoing testing and reporting of controls must be part of the business process in order to have a solid understanding of risks, strengths, and weaknesses.

A comprehensive solution is required to ensure that business critical applications are handled efficiently and are prioritized. Dynamic recovery procedures and fail over facilities must be incorporated into the scheduling process whenever possible; and where manual processes are needed, extensive tools must be available to minimize delays and ensure critical services are least impacted.

J. System Auditing

The Contractor must (i) create, protect, and retain information system audit log records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity, and (ii) ensure that the actions of individual information system users can be uniquely traced to those users so they can be held accountable for their actions.

The Contractor must observe the following guidelines regarding system auditing:

1. Audit record should contain the following:
 - date and time of the event
 - subject identity
 - type of event
 - how data changed
 - where the event occurred
 - outcome of the event
2. System alerts if audit log generation fails
3. System protects audit information from unauthorized access
4. Audit record should be reviewed by individuals with a “need to know” on a regular basis
5. Audit logs are retained for sufficient period of time.

K. Configuration Control and Management

The configuration management policy and procedures must be consistent with applicable federal laws, directives, policies, regulations, standards, and guidance.

L. Incident Reporting

The Contractor must immediately notify any security incidents and/or breaches to the CCI.

- The Contractor must have a documented and implemented Incident Response Policy and Procedure
- Incident handling form for consistent, repeatable process for monitoring and reporting when dealing with incidents.
- Incident response resource identified to assist users in handling and reporting incidents.



- Personnel trained in their incident response roles and responsibilities at least annually.

M. Physical and Environmental Security

The Contractor must have established physical and environmental security controls to protect systems, the related supporting infrastructure, and facilities against threats associated with their physical environment.

1. The Contractor must have established environmental protection for magnetic and other media from fire, temperature, liquids, magnetism, smoke, and dust.
2. The Contractor must control all physical access points to facilities containing information systems (except those areas within the facilities officially designated as publicly accessible), review physical security logs periodically, investigate security violations or suspicious physical access activities, and initiate remedial actions.
3. The Contractor must periodically review the established physical and environmental security controls to ensure that they are working as intended.

N. Disaster Recovery and Business Continuity Plan

The Contractor must have developed, periodically update, and regularly test disaster recovery and business continuity plans designed to ensure the availability of State data in the event of an adverse impact to the contractors information systems due to a natural or man-made emergency or disaster event.

O. Security Awareness Training

The Contractor must ensure their staff having access to State information are made aware of the security risks associated with their activities and of applicable laws, policies, and procedures related to security identified in Section A of this document, and ensuring that personnel are trained to carry out their assigned information security related duties.



**Exhibit E
HIPAA BUSINESS ASSOCIATE AGREEMENT ADDENDUM**

This Business Associate Agreement Addendum (“Addendum”) is made a part of the contract (“Contract”) between the Michigan Department of Community Health (“Covered Entity”), and _____, (“Business Associate”).

The Business Associate performs certain services for the Covered Entity under the Contract that requires the exchange of information including protected health information under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the American Recovery and Reinvestment Act of 2009 (Pub.L. No. 111-5). The Michigan Department of Community Health is a hybrid covered entity under HIPAA and the parties to the Contract are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and have the underlying Contract comply with HIPAA.

RECITALS

- A. Under the terms of the Contract, the Covered Entity wishes to disclose certain information to the Business Associate, some of which may constitute Protected Health Information (“PHI”). In consideration of the receipt of PHI, the Business Associate agrees to protect the privacy and security of the information as set forth in this Addendum.
- B. The Covered Entity and the Business Associate intend to protect the privacy and provide for the security of PHI disclosed to the Business Associate under the Contract in compliance with HIPAA and the HIPAA Rules.
- C. The HIPAA Rules require the Covered Entity to enter into a contract containing specific requirements with the Business Associate before the Covered Entity may disclose PHI to the Business Associate.

1. Definitions.

a. The following terms used in this Agreement have the same meaning as those terms in the HIPAA Rules: Breach; Data Aggregation; Designated Record Set; Disclosure; Health Care Obligations; Individual; Minimum Necessary; Notice of Privacy Practices; Protected Health Information; Required by Law; Secretary; Security Incident; Security Measures, Subcontractor; Unsecured Protected Health Information, and Use.

b. “Business Associate” has the same meaning as the term “business associate” at 45 CFR 160.103 and regarding this Addendum means [Insert Name of Business Associate]



c. “Covered Entity” has the same meaning as the term “covered entity” at 45 CFR 160.103 and regarding this Addendum means the Michigan Department of Community Health.

d. “HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

e. “Agreement” means both the Contract and this Addendum.

f. “Contract” means the underlying written agreement or purchase order between the parties for the goods or services to which this Addendum is added.

2. Obligations of Business Associate.

The Business Associate agrees to

a. use and disclose PHI only as permitted or required by this Addendum or as required by law.

b. implement and use appropriate safeguards, and comply with Subpart C of 45 CFR 164 regarding electronic protected health information, to prevent use or disclosure of PHI other than as provided in this Addendum. Business Associate must maintain, and provide a copy to the Covered Entity within 10 days of a request from the Covered Entity, a comprehensive written information privacy and security program that includes security measures that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI relative to the size and complexity of the Business Associate’s operations and the nature and the scope of its activities.

c. report to the Covered Entity within 24 hours of any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of Unsecured Protected Health Information as required by 45 CFR 164.410, and any Security Incident of which it becomes aware. If the Business Associate is responsible for any unauthorized use or disclosure of PHI, it must promptly act as required by applicable federal and State laws and regulations. Covered Entity and the Business Associate will cooperate in investigating whether a breach has occurred, to decide how to provide breach notifications to individuals, the federal Health and Human Services’ Office for Civil Rights, and potentially the media.

d. ensure, according to 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions,



conditions, and requirements that apply to the Business Associate regarding such information. Each subcontractor must sign an agreement with the Business Associate containing substantially the same provisions as this Addendum and further identifying the Covered Entity as a third party beneficiary of the agreement with the subcontractor. Business Associate must implement and maintain sanctions against subcontractors that violate such restrictions and conditions and must mitigate the effects of any such violation.

e. make available PHI in a Designated Record Set to the Covered Entity within 10 days of a request from the Covered Entity to satisfy the Covered Entity's obligations under 45 CFR 164.524.

f. within ten days of a request from the Covered Entity, amend PHI in a Designated Record Set under 45 CFR § 164.526. If any individual requests an amendment of PHI directly from the Business Associate or its agents or subcontractors, the Business Associate must notify the Covered Entity in writing within ten days of the request, and then, in that case, only the Covered Entity may either grant or deny the request.

g. maintain, and within ten days of a request from the Covered Entity make available the information required to enable the Covered Entity to fulfill its obligations under 45 CFR § 164.528. Business Associate is not required to provide an accounting to the Covered Entity of disclosures : (i) to carry out treatment, payment or health care operations, as set forth in 45 CFR § 164.506; (ii) to individuals of PHI about them as set forth in 45 CFR § 164.502; (iii) under an authorization as provided in 45 CFR § 164.508; (iv) to persons involved in the individual's care or other notification purposes as set forth in 45 CFR § 164.510; (v) for national security or intelligence purposes as set forth in 45 CFR § 164.512(k)(2); or (vi) to correctional institutions or law enforcement officials as set forth in 45 CFR § 164.512(k)(5); (vii) as part of a limited data set according to 45 CFR 164.514(e); or (viii) that occurred before the compliance date for the Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by the Business Associate and its agents or subcontractors for at least six years before the request, but not before the compliance date of the Privacy Rule. At a minimum, such information must include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If the request for an accounting is delivered directly to the Business Associate or its agents or subcontractors, the Business Associate must forward it within ten days of the receipt of the request to the Covered Entity in writing.



h. to the extent the Business Associate is to carry out one or more of the Covered Entity’s obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity when performing those obligations.

i. make its internal practices, books, and records relating to the Business Associate’s use and disclosure of PHI available to the Secretary for purposes of determining compliance with the HIPAA Rules. Business Associate must concurrently provide to the Covered Entity a copy of any PHI that the Business Associate provides to the Secretary.

j. retain all PHI throughout the term of the Agreement and for a period of six years from the date of creation or the date when it last was in effect, whichever is later, or as required by law. This obligation survives the termination of the Agreement.

k. implement policies and procedures for the final disposition of electronic PHI and the hardware and equipment on which it is stored, including but not limited to, the removal of PHI before re-use.

l. within ten days after a written request by the Covered Entity, the Business Associate and its agents or subcontractors must allow the Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI under this Addendum for the purpose of determining whether the Business Associate has complied with this Addendum; provided, however, that: (i) the Business Associate and the Covered Entity must mutually agree in advance upon the scope, timing and location of such an inspection; (ii) the Covered Entity must protect the confidentiality of all confidential and proprietary information of the Business Associate to which the Covered Entity has access during the course of such inspection; and (iii) the Covered Entity or the Business Associate must execute a nondisclosure agreement, if requested by the other party. The fact that the Covered Entity inspects, or fails to inspect, or has the right to inspect, the Business Associate’s facilities, systems, books, records, agreements, policies and procedures does not relieve the Business Associate of its responsibility to comply with this Addendum. The Covered Entity’s (i) failure to detect or (ii) detection, but failure to notify the Business Associate or require the Business Associate’s remediation of any unsatisfactory practices, does not constitute acceptance of such practice or a waiver of the Covered Entity’s enforcement rights under this Addendum.

3. Permitted Uses and Disclosures by the Business Associate.

a. Business Associate may use or disclose PHI:



(i) for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; provided, however, either (A) the disclosures are required by law, or (B) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(ii) as required by law;

(iii) for Data Aggregation services relating to the health care operations of the Covered Entity;

(iv) to de-identify, consistent with 45 CFR 164.514(a) – (c), PHI it receives from the Covered Entity. If the Business Associates de-identifies the PHI it receives from the Covered Entity, the Business Associate may use the de-identified information for any purpose not prohibited by the HIPAA Rules; and

(v) for any other purpose listed here: carrying out the Business Associate’s duties under the Contract.

b. Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity’s minimum necessary policies and procedures.

c. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by the Covered Entity except for the specific uses and disclosures described above in 3(a)(i) and (iii).

4. Covered Entity’s Obligations

Covered entity agrees to

a. use its Security Measures to reasonably and appropriately maintain and ensure the confidentiality, integrity, and availability of PHI transmitted to the Business Associate under the Agreement until the PHI is received by the Business Associate.

b. provide the Business Associate with a copy of its Notice of Privacy Practices and must notify the Business Associate of any limitations in the Notice of Privacy Practices of the Covered Entity under 45 CFR 164.520 to the extent that such limitation may affect the Business Associate’s use or disclosure of PHI.

c. notify the Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose the individual’s PHI to the extent that such changes may affect the Business Associate’s use or disclosure of PHI.



d. notify the Business Associate of any restriction on the use or disclosure of PHI that the Covered Entity has agreed to or is required to abide by under 45 CFR 164.522 to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.

5. Term. This Addendum must continue in effect as to each Contract to which it applies until such Contract is terminated or is replaced with a new contract between the parties containing provisions meeting the requirements of the HIPAA Rules, whichever first occurs.

6. Termination.

a. Material Breach. In addition to any other provisions in the Contract regarding breach, a breach by the Business Associate of any provision of this Addendum, as determined by the Covered Entity, constitutes a material breach of the Addendum and is grounds for termination of the Contract by the Covered Entity under the provisions of the Contract covering termination for cause. If the Contract contains no express provisions regarding termination for cause, the following apply to termination for breach of this Addendum, subject to 6.b.:

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

(ii) Associate's Duties. Notwithstanding termination of the Contract, and subject to any directions from the Covered Entity, the Business Associate must timely, reasonably and necessarily act to protect and preserve property in the possession of the Business Associate in which the Covered Entity has an interest.

(iii) Compensation. Payment for completed performance delivered and accepted by the Covered Entity must be at the Contract price.

(iv) Erroneous Termination for Default. If the Covered Entity terminates the Contract under Section 6(a) and after such termination it is determined, for any reason, that the Business Associate was not in default, or that the Business Associate's action/inaction was excusable, such termination will be treated as a termination for convenience, and the rights and obligations of the parties will be the same as if the Contract had been terminated for convenience.

b. Reasonable Steps to Cure Breach. If the Covered Entity knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate this Contract under Section 6(a), then the Covered Entity must notify the Business Associate of the pattern of activity or practice. The Business Associate must then take reasonable steps to cure such breach or end such violation, as applicable. If the Business Associate's efforts to cure such breach or end such violation are unsuccessful, the Covered Entity must either (i)



terminate this Agreement, if feasible or (ii) if termination of this Agreement is not feasible, the Covered Entity must report the Business Associate’s breach or violation to the Secretary of the Department of Health and Human Services.

c. Effect of Termination. After termination of this Agreement for any reason, the Business Associate, with respect to PHI it received from the Covered Entity, or created, maintained, or received by the Business Associate on behalf of the Covered Entity, must:

- (i) retain only that PHI which is necessary for the Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
- (ii) return to the Covered Entity (or, if agreed to by the Covered Entity in writing, destroy) the remaining PHI that the Business Associate still maintains in any form;
- (iii) continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as the Business Associate retains the PHI;
- (iv) not use or disclose the PHI retained by the Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at Section 3(a)(1) which applied before termination; and
- (v) return to the Covered Entity (or, if agreed to by the Covered Entity in writing, destroy) the PHI retained by the Business Associate when it is no longer needed by the Business Associate for its proper management and administration or to carry out its legal responsibilities.

7. No Waiver of Immunity. The parties do not intend to waive any of the immunities, rights, benefits, protection, or other provisions of the Michigan Governmental Immunity Act, MCL 691.1401, *et seq.*, the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, or the common law.

8. Data Ownership. The Business Associate has no ownership rights in the PHI. The covered entity retains all ownership rights of the PHI.

9. Disclaimer. The Covered Entity makes no warranty or representation that compliance by the Business Associate with this Addendum, HIPAA or the HIPAA Rules will be adequate or satisfactory for the Business Associate’s own purposes. Business Associate is solely responsible for all decisions made by the Business Associate regarding the safeguarding of PHI.

10. Certification. If the Covered Entity determines an examination is necessary to comply with the Covered Entity’s legal obligations under HIPAA relating to certification of its security practices, the Covered Entity or its authorized agents or contractors, may, at the Covered Entity’s expense, examine the Business Associate’s facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to the Covered Entity the extent to which the Business Associate’s security safeguards comply with HIPAA, the HIPAA Rules or this Addendum.



11. Amendment.

a. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA and the HIPAA Rules. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA and the HIPAA Rules. Either party may terminate the Agreement upon thirty days written notice if (i) the Business Associate does not promptly enter into negotiations to amend this Agreement when requested by the Covered Entity under this Section or (ii) the Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that the Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA Rules.

12. Assistance in Litigation or Administrative Proceedings. Business Associate must make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, if someone commences litigation or administrative proceedings against the Covered Entity, its directors, officers or employees, departments, agencies, or divisions based upon a claimed violation of HIPAA or the HIPAA Rules relating to the Business Associate's or its subcontractors use or disclosure of PHI under this Agreement, except where the Business Associate or its subcontractor, employee or agent is a named adverse party.

13. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer any rights, remedies, obligations or liabilities upon any person other than the Covered Entity, the Business Associate and their respective successors or assigns.

14. Effect on Contract. Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract must remain in force and effect. The parties expressly acknowledge and agree that sufficient mutual consideration exists to make this Addendum legally binding in accordance with its terms. Business Associate and the Covered Entity expressly waive any claim or defense that this Addendum is not part of the Contract.

15. Interpretation and Order of Precedence. This Addendum is incorporated into and becomes part of the Contract. Together, this Addendum and each separate Contract constitute the "Agreement" of the parties with respect to their Business Associate relationship under HIPAA and the HIPAA Rules. The provisions of this Addendum must prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract must be interpreted



as broadly as necessary to implement and comply with HIPAA and the HIPAA Rules. The parties agree that any ambiguity in this Addendum must be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA Rules. This Addendum supersedes and replaces any previous separately executed HIPAA addendum between the parties. If this Addendum conflicts with the mandatory provisions of the HIPAA Rules, then the HIPAA Rules control. Where the provisions of this Addendum differ from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Addendum control.

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

17. Survival of Certain Contract Terms. Notwithstanding anything in this Addendum to the contrary, the Business Associate’s obligations under Section 6(d) and record retention laws (“Effect of Termination”) and Section 13 (“No Third Party Beneficiaries”) survive termination of this Addendum and are enforceable by the Covered Entity if the Business Associate fails to perform or comply with this Addendum.

18. Representatives and Notice.

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

b. Notices. All required notices must be in writing and must be hand delivered or given by certified or registered mail to the representatives at the addresses set forth below.

Covered Entity Representative:

Name: _____
Title: _____
Department and Division: _____
Address: _____

Business Associate Representative:

Name: _____
Title: _____
Department and Division: _____
Address: _____



Any notice given to a party under this Addendum must be deemed effective, if addressed to such party, upon: (i) delivery, if hand delivered; or (ii) the third (3rd) Business Day after being sent by certified or registered mail.

Business Associate

[INSERT NAME]

By: _____

Date: _____

Print Name: _____

Title: _____

Covered Entity

[INSERT NAME]

By: _____

Date: _____

Print Name: _____

Title: _____

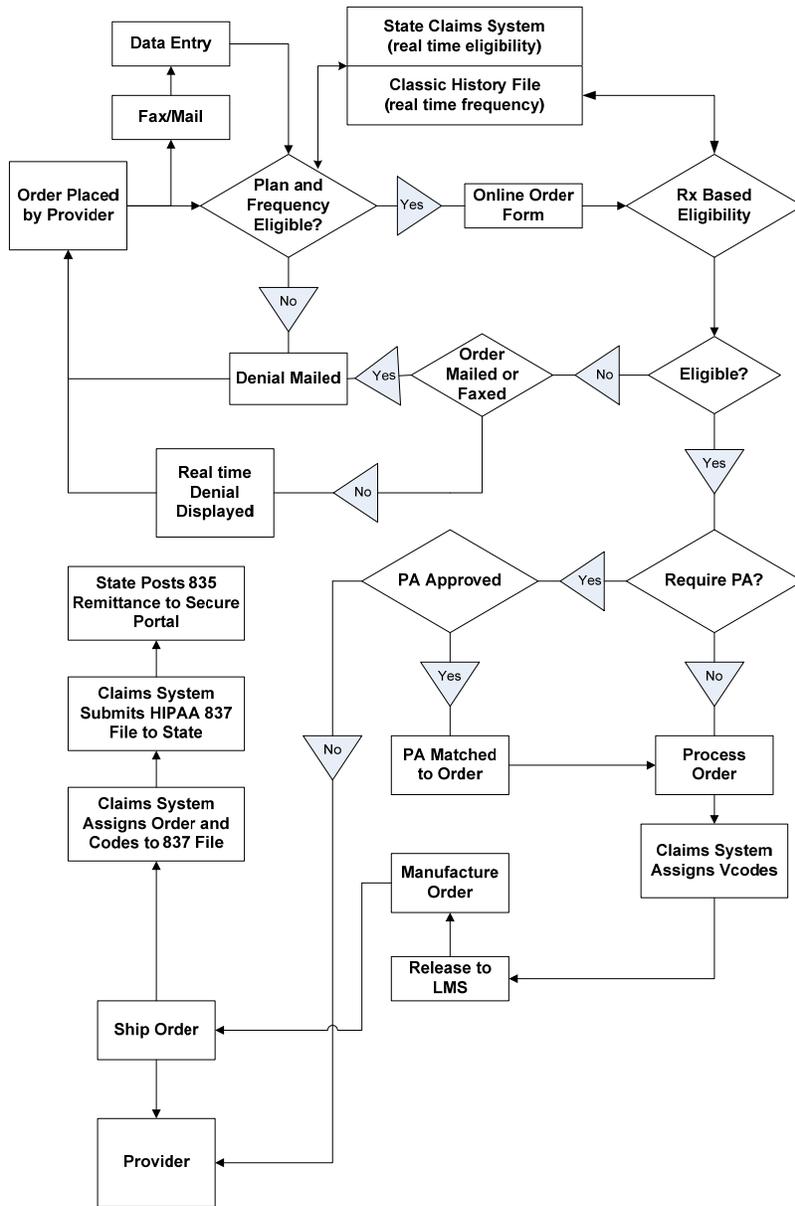


Exhibit F Contractor's Flow of Work – From Eligibility, Order Entry, Fabrication and Delivery to Claims Processing

The following diagram, Figure 1: Michigan Eligibility, Benefit Management and Claims System, is a snapshot into the stages of the Contractor's proprietary Medicaid Management Information System (MMIS) and when the system performs the different eligibility and benefit management functions. Following the chart is a description of the eligibility process and benefit management system.

Many of the following sections of the response will refer to parts of the processes of Figure 1.

Figure 1: Michigan Eligibility and Claims Processing System



Michigan Eligibility and Claims Processing (Figure 1 Description)



More than 90% of orders placed with Contractor are ordered electronically directly through Contractor's proprietary online ordering system and electronically interfaced into Contractor's proprietary MMIS.

Stage 1: Michigan Medicaid Plan Eligibility and Simple Frequency Confirmation/Denial (IT Director oversees this function)

The Contractor's Michigan Medicaid Provider portal allows Michigan Medicaid Vision Providers to confirm whether (a) the Beneficiary is eligible under the State of Michigan Medicaid program and (b) the Beneficiary is entitled to lenses, a frame or complete pair, before the onerous process of entering an order begins. Once a Michigan Medicaid Vision provider logs into the Contractor's MMIS, the system requests the Beneficiary Name, Michigan Medicaid ID, date of birth and date of Order/Service. From this information, the Contractor's MMIS performs both Plan Eligibility and Frequency Eligibility, as detailed below.

Plan Eligibility - Beneficiaries are verified for eligibility using each state's specific Medicaid online eligibility system by cross-referencing the participant's Medicaid number and the date of service. The system also performs a coordination of benefits and will not allow an order where the Beneficiary is covered under a Michigan Medicaid Health Plan on the date of order. For the Michigan program, Contractor offers this service real-time via a HIPAA-compliant electronic http transaction.

Simple Frequency Eligibility - Beneficiaries are verified for simple frequency limitations based on the State of Michigan program and, where applicable, the Beneficiary's age. At this point in the process, Contractor is cross-referencing the Beneficiary Member ID and date of birth with Contractor's internal history of orders to confirm, given the Beneficiary's age, whether he/she is entitled to an additional frame, lens(es) or complete pair. (Note: At this stage, the Provider has not entered any part of the prescription, so neither the diopter nor the same pair requirements can be tested.)

Eligibility Denial - Ineligible (plan and/or frequency) orders not permitted. Contractor issues a pop-up window denial within seconds of the participant ID and date of birth being entered; it obviates the need for the order to be entered. (Note: When the order is received by mail or fax, Contractor confirms the first stage of eligibility (plan and frequency as described above) and returns the order by mail to the Provider with a State-approved ineligible notice. These notices are mailed the day after the order is received.)

Stage 2: Order Receipt & Order Entry (Customer Service Director and IT Director oversee this function)

Order Entry - Where Beneficiaries meet Plan and Simple Frequency Eligibility, the Contractor MMIS presents Providers with a SMART online order form. The form will be pre-populated with the Provider and Beneficiary's information, where Contractor has previously fabricated eyeglasses for the Beneficiaries. The form will also limit the order to only items permitted under the State of Michigan program (e.g., contract approved frames, lens materials, **initial diopter criteria**, etc.).

For orders received via common carrier or fax, orders are entered into the MMIS by Contractor's Data Entry department.

Stage 3: Eligibility Confirmation/Denial (IT Director oversees this function)

Once the Provider has completed the order entry and submitted the order, the Contractor's MMIS reviews each order for conformity with the State of Michigan Medicaid rules and program policy and procedures.

Complete Benefit and Frequency Eligibility - At this stage, Contractor has all of the new prescription information of the Beneficiary and can complete the Benefit and Frequency Eligibility process. The proposed Rx information is cross-referenced with the Contractor's Michigan order history file to confirm that the new order meets all of the State of Michigan policies (e.g., given the Beneficiary's age the prescription meets the replacement criteria, the subsequent diopter change requirements where required, or is an exact replacement of the previous lenses and frame, etc.).



Eligibility Denial - Ineligible orders are denied. The means of notice of the denial depends upon the means by which Contractor received the order. For example, where the order is placed online, Contractor issues an ineligible message via email within two (2) hours of the time the order was placed. When the order is received by mail or fax, Contractor returns the order by mail to the Provider with an ineligible notice, approved by the Program Manager. These notices are mailed the day after the order is received. The Contractor's track orders screen is updated to advise that the order was denied.

Stage 4: Production Starts and Eyeglasses are Fabricated (Director of Lab Operations oversees this function)

Eligible orders are assigned a unique job ID that is downloaded into Contractor's Lab Management System (LMS). The work tickets are created and automatically print in the Stockroom. The work ticket is placed in a tray with the Rx. Each work ticket includes a bar code that is read as the order leaves each station in the order process (250 traceable stations throughout the lab process). The order processes through all manufacturing stages (as detailed in Figure 2 and the Description of Flow of Orders through the Laboratory in Exhibit G).

Stage 5: Shipping (Shipping Manager oversees this function)

Shipping - In the Shipping Department, orders are placed in cases and packaged with an invoice detailing the order information. Each order is sorted by customer group (e.g., specific state contract, large retailer, specific doctor's account). Then each order is placed in a shipping bin designated for its particular provider account. All orders for that account are packaged together and shipped by the most efficient and cost effective means.

Stage 6: Claims System Assigns Order to 837 Claims File

On a weekly basis, Contractor submits an 837 HIPAA-compliant claim file to the State via one of its approved claims processing systems.

Contractor's core business is performing under sole-source, direct state Medicaid eyeglass contracts. Contractor understands all system-related aspects of the State's Medicaid contract, including verifying Medicaid eligibility, managing eyeglasses benefit limits, and processing claims via electronic submission.

The Contractor's MMIS includes an online order form that is only available to Michigan providers and will not allow an order for a frame, lens, or service that is not on the Michigan contract. Similarly, the form will not permit a lens order where the Rx does not meet the minimum diopter requirements as defined by the State. **This form can be further modified, and it has been over the years, to meet the changing needs of the evolution of the program.**

Contractor understands and adheres to the State of Michigan's policy that initial lens prescriptions are the first lenses ever worn by a person regardless of how they were obtained. The Contractor's proprietary MMIS maintains original prescriptions and every prescription for a State of Michigan beneficiary dating back to January 18, 2000 as the point of reference for adherence to this policy. On a regular basis, the Contractor's MMIS manages all of the requirements for the State of Michigan program to ensure that all the Rxs meet these minimum diopter criteria prior to fabrication.

Age 42 years and Younger
 0.50D myopia
 0.50D astigmatism
 0.75D anisometropia
 0.75D hyperopia

Age 43 years and Older
 0.50D myopia
 0.50D astigmatism
 0.75D anisometropia
 0.50D presbyopia
 0.50D hyperopia

The Initial Lens Diopter Requirement is processed as part of the Online Order/Rx-Based Eligibility as illustrated in Figure 1 and described in Stage 2 above.

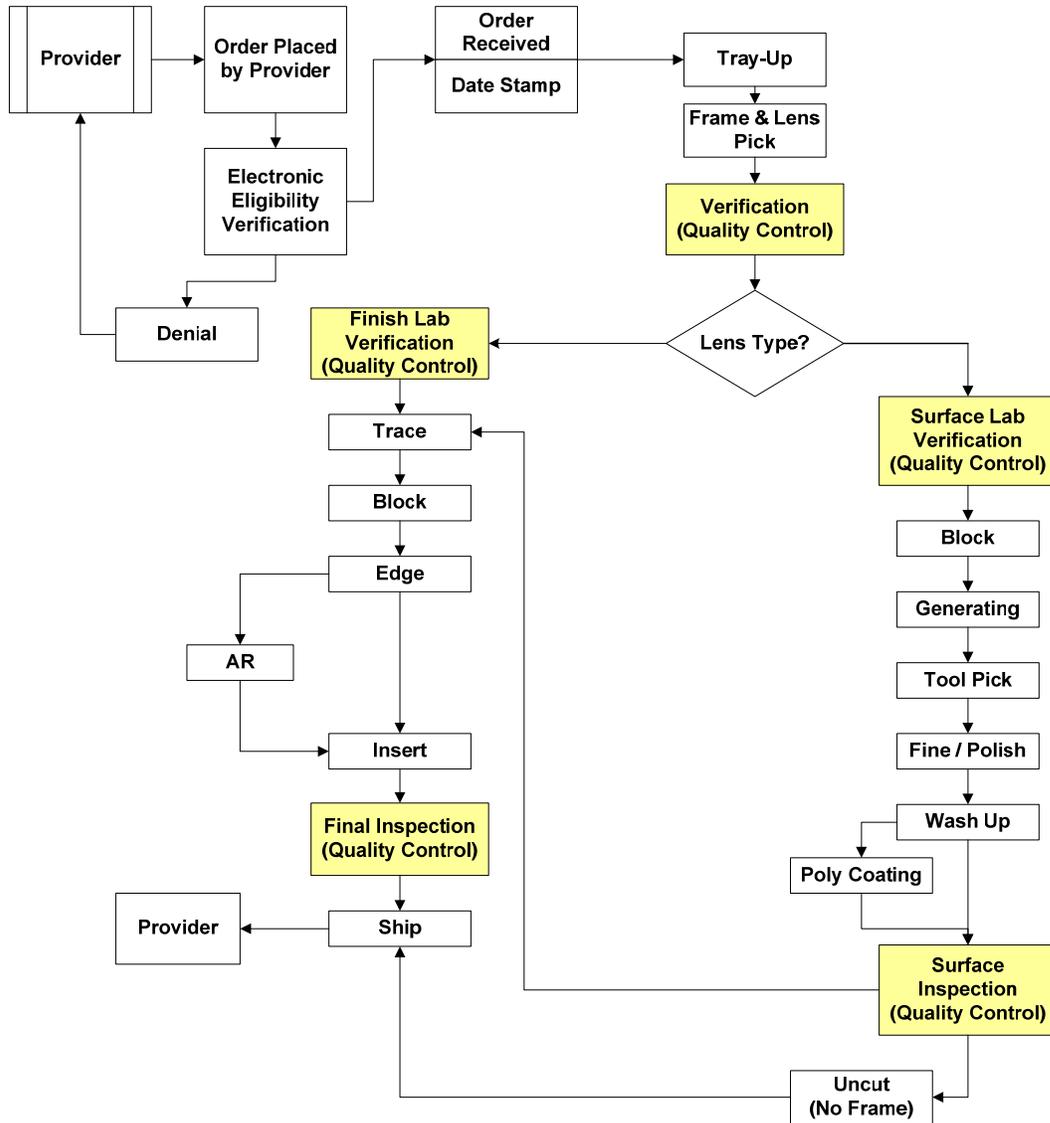


EXHIBIT G

Contractor's Flow of Work – Processing Orders from Receipt to Delivery

The following flow chart depicts order processing through the Contractor's laboratory. As shown in the following operations flow chart, the lab is designed in a large circle allowing for efficient workflow. Following the chart is a description of the work flow and how an order is processed and completed

Figure 2 – Flow of Orders through the Contractor's Laboratory (Michigan Medicaid Model)



Flow of Work – Narrative

Stage 1: Order Receipt & Order Entry (Customer Service Director and IT Director oversee this function)



Order Receipt & Order Entry - More than 90% of orders are now being submitted electronically directly through Contractor's proprietary online ordering system and electronically interfaced into Contractor's MMIS. For orders received via common carrier or fax, orders are entered into MMIS by Contractor's Data Entry department.

Date-Stamping - Orders received via common carrier are opened and date stamped. Faxed orders are automatically stamped with date of receipt by fax equipment. Online orders are automatically date stamped as they are downloaded into Contractor's MMIS.

Completeness & Accuracy Review - Each Rx received via common carrier or fax is reviewed by Contractor's order processing department to ensure the order is complete and accurately entered into the Contractor's MMIS. By comparison, the completeness of online orders are checked automatically by MMIS as the order is placed.

Duplicate Order Check - Once the order is in the system, the MMIS automatically cross-references Contractor's electronic file history to identify previous orders processed for the participant and to ensure it is not a duplicate order sent from the Eye Care Provider.

Stage 2: Eligibility Confirmation/Denial (IT Director oversees this function)

At this stage Contractor reviews each order for conformity with each state's Medicaid rules and program policy and procedures.

Plan Eligibility - Orders are verified for eligibility using each state's specific Medicaid online eligibility system by cross-referencing the participant's Medicaid number and the date of service. Contractor prefers doing this real-time by HIPAA-compliant electronic http transactions or batch transmission, depending on the state's system (270/271). These batch processes can be completed as often as the state eligibility system will permit. (Some states only permit such a transaction once a day, while others permit the transaction multiple times throughout the day. Contractor prefers the latter so that it is able to process orders as quickly as possible.) Contractor can confirm eligibility through a manual process, when necessary.

Benefit Eligibility - Orders are verified for benefit/frequency limitations. Where available, eyeglass benefit information is cross-referenced with the state's information. In all cases the eyeglass benefit information is cross-referenced in-house with Contractor's internal history of orders; this can be done real-time. This process ensures eyeglasses are not produced and submitted to the state for payment where they exceed the state's prescribed benefit. (For example, if the state requires that replacement Rx be the same as the original pair, Contractor compares the Rx to the previous order for that patient to confirm the Rx is the same. If the Rx is the same, Contractor processes the order. If the Rx is different, Contractor denies the order and the order is not processed. If the state limits the participant to one (1) pair per year, Contractor looks at the participant's history to confirm whether to process the order, etc.)

Eligibility Denial - Ineligible orders are denied. The means of notice of the denial depends upon the means by which Contractor received the order. For example, in states where Contractor has access to full participant files from the state, (e.g., 834 member files or http real-time 270/271 transaction) and the order is placed online, Contractor issues a pop-up window denial within seconds of the participant ID being entered; it obviates the need for the order to be entered. Contractor uses a 270/271 eligibility transaction and an order was placed online, Contractor issues an ineligible message via email within two (2) hours of the time the order was placed. When the order is received by mail or fax, Contractor returns the order by mail to the Provider with an ineligible notice. These notices are mailed the day after the order is received.

Stage 3: Production Starts (Data Processing Manager and Stockroom Manager oversee this function)

Work Ticket Creation - Eligible online orders are assigned a unique job ID that is downloaded into Contractor's Lab Management System (LMS). The work tickets are created and automatically print in the



Stockroom. The work ticket is placed in a tray with the Rx. Each work ticket includes a bar code that is read as the order leaves each station in the order process (250 traceable stations throughout the lab process).

Stage 4: Frame & Lens Pick (Stockroom Manager oversees this function)

In the Stockroom, Frame and Lens Department personnel pull the required frame and lenses for each order and place them in the tray. To assist in lens and frame selection, the computerized system prints an exact lens and frame shelf location on the work ticket. This lens pulling system increases accuracy by reducing the potential for human error in manual lens pulling. Before the tray leaves the Stockroom, a bar code wand is used to electronically verify the proper frame and lens packages are in the tray (bar code on lens box and frame bag to bar code on order).

Stage 5: Inspection/Verification (Quality Control Manager oversees this function)

From the Stockroom the tray moves to the Contractor's Inspection Department where the Inspection Team manually removes the frame and lenses from the package and confirms that the selection of materials matches the materials ordered. The Inspection Team also conducts a visual inspection on all lenses and frames for manufacturer defects. Frames are also inspected to confirm that they are properly marked, colored, and all soldering points are in proper order.

At this point orders that do not require surfacing skip Stages 6 and 7 and proceed directly to Stage 8.

Stage 6: Surface (Surface Manager oversees this function)

The semi-finished lenses (lenses that need to be surfaced) are processed through the Layout Department, where each lens is examined to verify on-axis blocking. After blocking, the lenses are generated and the operator verifies the thickness of each lens after it is cut. Tool inspectors verify that the correct tools have been pulled for that specific order. The orders are then fined, polished, washed, and checked for scratches, gray, and surface marks.

Note: All polycarbonate lenses are backside coated to reduce the susceptibility to scratching.

Stage 7: Surface Inspection (Surface/Quality Control Managers oversee this function) *The lenses then enter Contractor's Surface Inspection Department to be inspected by automated lens analyzers for proper prescription grinding (power accuracy). All jobs are tagged with the inspector's unique inspector number for accountability and additional training, where necessary. The lenses to be finished are spotted-up and sent to Contractor's Finish Department. Lenses that do not require edging or inserting into a frame (uncuts) are inspected and then sent to the mailroom to be shipped (Stage 10).*

Stage 8: Finish (Finish Manager oversees this function)

The orders process through Contractor's Finish Department.

Finished Lenses - Lenses that do not need to be surfaced are placed in a tray with their respective frame and placed on a conveyer in the Stockroom, travel to the tracing station where the frame is traced, and then placed back on the conveyor. Next, trays with multifocal lenses proceed to the automated robotic surface inspection and blocker machine, through the automated robotic block-less edgers, and into the hands of the lens inserters. Trays with single vision lenses proceed through the automated robotic block-less edgers, and into the hands of the lens inserters.

Semi-finished Lenses - Lenses that have been surfaced are taken to the tracing station where the frame is traced and placed back on the conveyor. Next, trays with multifocal lenses proceed to the automated robotic surface inspection and blocker machine, through the automated robotic block-less edgers, and into the hands of the lens inserters. Trays with single vision lenses proceed through the automated robotic block-less edgers, and into the hands of the lens inserters.



Notes:

- *A safety bevel is added to all lenses by the automated edger or by hand, depending on the Rx.*
- *All glass jobs are chemically-hardened or heat-treated and then drop-ball tested.*
- *Tints and cosmetic coatings, (such as mirrors, anti-reflective, etc.) are added after edging and before insertion.*

Insertion:

All edged lenses are manually inserted by a team of experienced lens inserters.

Stage 9: Final Inspection (Finish/Quality Control Managers oversee this function)

Final inspectors use automated lens analyzers to verify Rx accuracy. The final inspectors also look for cosmetic defects like scratches, production marks, frame alignment, and proper lens sizing for the frame. The final inspector also completes a visual inspection to confirm tints, coatings, and that the frame is the proper style, color, and size as ordered. All jobs are tagged with the inspector's unique inspector number. All jobs that pass final inspection are sent to Contractor's Shipping Department.

Stage 10: Shipping (Shipping Manager oversees this function)

Random Inspection - In the Shipping Department, random orders are pulled from the shipping bins to make a check on the inspector's work.

Shipping:

In the Shipping Department, orders are placed in cases and packaged with an invoice detailing the order information. Each order is sorted by customer group (e.g., specific state contract, large retailer, specific doctor's account). Then each order is placed in a shipping bin designated for its particular provider account.

Within the client group, all orders for a particular shipping location are packaged together and shipped by the most efficient and cost effective means to meet the contracted turnaround time.

The computer system returns the shipping date "date stamp" based on the date the order leaves the building.

Flow of Work - Top Priority for Special Handling of Orders Requiring More than 5 Days

While orders requiring more than five days account for less than 2% of all Contractor's orders, given the "special" nature of these orders they immediately get tagged as needing special handling.

In addition to Contractor's Flow of Work Process described above and Contractor's Quality Control procedures as outlined below, these orders are given top priority for special handling. These orders are brought to the attention of the Lab Manager for immediate processing and follow the Special Handling procedures. The procedures apply to any order that has been in the lab for five (5) or more days or meets any of the Special Handling categories such as a child's order in the lab for more than three (3) days, high power, or high prism.

- *Each day the Production Control person follows the orders in process to identify orders that have fallen behind or meet a Special Handling category. By identifying these jobs before they are late, Contractor often can process them through and get them out the same day with personal attention of an expeditor. Orders that meet these parameters are brought to the attention of the Lab Manager for immediate processing and customer service to advise the provider on the status of the order.*
- *Customer service notifies the ordering provider that the order will take more than five (5) days to complete. At this same time, and where practical, customer service gives an estimated delivery date for the completed order. More importantly, customer service continues to keep the provider updated until the product is shipped.*



- *The Lab Manager and Stockroom Manager confirm whether the lenses are in stock. If the lenses are not in stock, the Stockroom Manager will obtain them from the manufacturer as quickly as possible.*
- *If not already in the system, the order is then entered into Contractor's computer tracking system and assigned to the Assistant Lab Manager to ensure timely delivery.*
- *The Assistant Lab Manager and Surfacing Quality Supervisor process the job through Key Surfacing Personnel after which the job is sent to the Finish Room Manager to expedite.*
- *The Finish Room Manager tags the tray for immediate handling and assigns the order to the most experienced person in the Department, who in turn follows the tray through the Final Inspection and Quality Control Departments.*
- *The job order is then packaged and sent to the provider.*
- *The Directors and Lab Managers review daily progress reports of priority/special jobs. These reports help ensure that all orders are completed within the delivery times required.*



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Classic Optical Laboratories, Inc. (“**Contractor**”), a, Ohio Corporation. This Contract is effective on January 1, 2015 (“**Effective Date**”), and unless terminated, expires on December 31, 2017.

This Contract may be renewed for up to 2 additional 1 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.

<p>If to State:</p> <p>Mary Ostrowski, Buyer DTMB Constitution Hall 525 W Allegan St 1st FLR NE Lansing, MI 48909 ostrowskim@michigan.gov (517) 284-7021 (p) (517) 335-0046 (f)</p>	<p>If to Contractor:</p> <p>Dawn Friedkin, President 3710 Belmont Avenue Youngstown, OH 44505 dawn@classicoptical.com (888)522-2020 ext. 1311 (p)</p>
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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**”):



<p>If to State: Mary Ostrowski DTMB Constitution Hall 525 W Allegan St 1st FLR NE Lansing, MI 48909 ostrowskim@michigan.gov (517) 284-7021 (p) (517) 335-0046 (f)</p>	<p>If to Contractor: Dawn Friedkin, President 3710 Belmont Avenue Youngstown, OH 44505 dawn@classicoptical.com (888) 522-2020 ext. 1311 (p)</p>
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

<p>Jessica Kyer, Program Manager (day to day) Michigan Department of Community Health Capital Commons Building 6th Floor 400 South Pine Street P.O. Box 30170 Lansing, MI 48909 kyerj@michigan.gov (517) 335-5271 (p) (517) 335-0075 (f)</p>	<p>Mary Anne O’Toole, Program Manager 3710 Belmont Avenue Youngstown, OH 44505 (888) 522-2020 ext. 1311 (p)</p>
<p>Kim Young, Buyer (non day-to-day) Michigan Department of Community Health Lewis Cass Building 320 South Walnut Lansing, MI 48913 Youngk10@michigan.gov (517) 241-3784 (p) (517) 335-0075 (f)</p>	<p>Dawn Friedkin, President (back-up Program Manager) 3710 Belmont Avenue Youngstown, OH 44505 dawn@classicoptical.com (888) 522-2020 ext. 1311 (p)</p>

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 \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$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.
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.	
Cyber Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 Each Occurrence \$5,000,000 Annual Aggregate	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

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

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

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

17. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Exhibit A. All containers and packaging becomes the State's exclusive property upon acceptance.
18. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities,



Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

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

20. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Contract Activities purchased under the Contract are for the State's exclusive use. Prices are exclusive of all taxes, and Contractor is 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. Liquidated damages, if applicable, will be assessed as described in Exhibit A.

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

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

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

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

24. Termination for Convenience. The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice



will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

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

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during



the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

30. Reserved

31. State Data.

- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within one (1) business day of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Exhibit A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Exhibit A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's



obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section survives the termination of this Contract.

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

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



election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

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

33. Data Privacy and Information Security.

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

34. Reserved

35. Reserved

- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 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 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and



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

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

37. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause; (i) all lenses to be free from any manufacturing defects. Lab errors must be remade to original specifications only. Frames returned as broken must be deemed as manufacturer's defect in order to be replaced. (j) if within 90 days after delivery, an article furnished under this Contract is found to be unsatisfactory due to Contractor error, defective workmanship and/or materials, the same must be corrected, adjusted or replaced by the Contractor, as necessary, at the Contractor's expense. (k) Contractor is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the Contract. (l) Contractor is qualified and registered to transact business in all locations where required. (m) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it. (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Procurement.

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

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

40. **Reserved**

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

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

43. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by



Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.

- 44. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 45. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 46. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 47. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 48. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 49. **Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.
- 50. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 51. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 52. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 53. **Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").