



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 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 **3**
 to
 Contract Number **180000000006**

CONTRACTOR	SEILER INSTRUMENT & MFG. CO, INC.
	29485 Lorie Ln.
	Wixom, MI 48393
	Ted Muns
	517-648-3759
	tmuns@seilergeo.com
	CV0050987

STATE	Program Manager	Shawn Roy	MDOT
		517-335-6299	
	roys@Michigan.gov		
	Contract Administrator	Yvon Dufour	DTMB
(517) 249-0455			
dufour@michigan.gov			

CONTRACT SUMMARY

SURVEY GRADE EQUIPMENT			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 3, 2017	September 30, 2020	2 - 1 Year	September 30, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	One year	<input type="checkbox"/>		September 30, 2022
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$250,000.00	\$0.00	\$250,000.00		

DESCRIPTION
 Effective 7/27/2021, the second option year available on this contract is hereby exercised. The revised contract expiration date is 9/30/2022. All other terms, conditions, specifications and pricing remain the same. Per agency request, and DTMB Procurement approval.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 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 2
 to
 Contract Number 180000000006

CONTRACTOR	Seiler Instrument & Mfg. Co., INC.
	29485 Lorie Ln.
	Wixom, MI 48393
	Ted Muns
	517-648-3759
	tmuns@seilergeo.com
	CV0050987

STATE	Program Manager	Shawn Roy	MDOT
		517-335-6299	
	roys@Michigan.gov		
	Contract Administrator	Yvon Dufour	DTMB
(517) 249-0455			
dufoury@michigan.gov			

CONTRACT SUMMARY

SURVEY GRADE EQUIPMENT			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 3, 2017	September 30, 2020	2 - 1 Year	September 30, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	one year	<input type="checkbox"/>		September 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$250,000.00	\$0.00	\$250,000.00		

DESCRIPTION
 Effective 10/1/2020, the first option year available on this contract is hereby exercised. The revised contract expiration date is 9/30/2021. All other terms, conditions, specifications and pricing remain the same. Per agency request, 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 1
 to
 Contract Number 17118000000006

CURRENT CONTRACTOR	MIDWEST SURVEY SUPPLY, INC.
	5700 Aurelius Rd. , Suite 500
	Lansing, MI 48911
	John Lindstrom
	517-319-6500
	jlindstrom@michigansurveyorssupply.com
	CV0036793

NEW CONTRACTOR	Seiler Instrument & Mfg. Co., Inc.
	29485 Lorie Ln.
	Wixom, MI 48393
	Ted Muns
	517-648-3759
	tmuns@seilergeo.com
	CV0050987

STATE CONTACTS					
Program Manager	Shawn Roy	MDOT	Contract Administrator	Yvon Dufour	DTMB
	517-335-6299			(517) 249-0455	
	roys@Michigan.gov			dufoury@michigan.gov	

CONTRACT SUMMARY			
SURVEY GRADE EQUIPMENT			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 3, 2017	September 30, 2020	2 - 1 Year	September 30, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS		EXTENDED PURCHASING	
P-Card	Direct Voucher (PRC)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input 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"/>		September 30, 2020
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$250,000.00	\$0.00	\$250,000.00		

DESCRIPTION
 Effective 3/5/2020, the following amendment is hereby incorporated into the contract. This contract with Michigan Surveyors supply shall be assigned to Seiler Instrument & Mfg. Co., Inc. All other terms, conditions, specifications and pricing remain the same. Per contractor request, and DTMB Procurement approval.



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

DTMB Procurement

525 W Allegan St, Lansing, MI 48913
P.O. Box 30026, Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 171180000000006

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Michigan Surveyors Supply
	5700 Aurelius Rd., Suite 500
	Lansing, MI 48911
	John Lindstrom
	517-319-6500
	jlindstrom@michigansurveyorssupply.com
	0822

STATE	Program Manager	Shawn Roy	MDOT
		517-335-6299	
		roys@michigan.gov	
STATE	Contract Administrator	Brian Fairbrother	DTMB
		517-284-7008	
		fairbrotherb@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Survey Grade Equipment			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 3, 2017	September 30, 2020	2, One year	
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		21 calendar days ARO	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input checked="" type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing RFP No. 007116B0011903. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$250,000.00

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Dan Stevens, Category Manager - Commodities

Name & Title

DTMB - Procurement

Agency

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Michigan Surveyors Supply (“**Contractor**”), a Michigan corporation. This Contract is effective on October 3, 2017 (“**Effective Date**”), and unless terminated, expires on September 30, 2020. This Contract may be renewed for up to two (2) – one (1) year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice

The parties agree as follows:

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

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

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

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

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

If to State: Brian Fairbrother DTMB, Procurement Constitution Hall 525 West Allegan Street PO Box 30026 Lansing, MI 48909 fairbrotherb@michigan.gov 571-284-7008	If to Contractor: Michigan Surveyors Supply 5700 Aurelius Rd. Suite 500 Lansing, MI 48911 Jlindstrom@michigansurveyorssupply.com 517-319-6500
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- 3. Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State: Brian Fairbrother DTMB, Procurement Constitution Hall 525 West Allegan Street PO Box 30026 Lansing, MI 48909 fairbrotherb@michigan.gov 571-284-7008	Contractor: Michigan Surveyors Supply John Lindstrom 5700 Aurelius Rd. Suite 500 Lansing, MI 48911 jlindstrom@michigansurveyorssupply.com 517-319-6500
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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**”):

State: Shawn Roy, MDOT VanWagoner 425 W. Ottawa St Lansing, MI 48933 roys@michigan.gov 517-335-6299	Contractor: Mark TenHove, Michigan Surveyors Supply 5700 Aurelius Rd. Suite 500 Lansing, MI 48911 mtenhove@michigansurveyorssupply.com 517-319-6500
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor’s 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 a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<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> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

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

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

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

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

Department of Technology, Management and Budget
 Cashiering
 P.O. Box 30681
 Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

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

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

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

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

as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

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

Within 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 Schedule 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 Schedule A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.
20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

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

21. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be

deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the 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. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.
- 31. Reserved.**
- 32. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.
- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor

or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 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 Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

33. Reserved.

34. Reserved.

35. Reserved.

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

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

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

37. Warranties and Representations. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes

identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
40. **Reserved**
41. **Reserved**
42. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
43. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
44. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
45. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
46. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
47. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a

party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

48. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and expressly incorporated schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
51. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
52. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
53. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
54. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

STATE OF MICHIGAN

Contract No. 17118000000006

Survey grade equipment: High accuracy GPS, Total Stations, Digital levels, and other related surveying equipment.

CONTRACT ACTIVITIES

Background

MDOT continues to rely heavily on technology to perform its survey work. Keeping the Governor's focus on technologically driven efficiencies in mind, MDOT is constantly moving towards streamlined, automated field surveying procedures.

All MDOT related surveying tasks are now being supported by the Surveying Support Unit. The Surveying Support Unit is tasked with ensuring that vendor equipment interfaces with the existing hardware and software already used by MDOT and that the work flows used are not compromised.

Deliverable(s)

The Contractor will be required to provide a complete electronic (excel) price catalog of all equipment and software that the vendor produces, supplies, or resales if the existing catalog changes.

Prices are quoted as a percentage discount from the Manufacturer's cataloged pricing. The price is expected to remain constant through the State's fiscal year (I.E. October 1, 2017 thru September 30, 2018). Any changes to the price list will be provided via email pending the award of the contract.

MDOT also requests that any catalogs provided for major equipment items also show related products.

New products, and or product upgrades/changes, during the term of this Contract will also be available for purchase at a percentage discount from the Manufacturer's catalog pricing. Additions or subtractions can be submitted to the MDOT Program Manager or designee.

Vendors are required to contact the MDOT Program Manager or designee before soliciting other State employees to demonstrate its value to MDOT's department goals. Upon request the MDOT Program Manager or designee can and will schedule dates for individual vendors to demonstrate their equipment to all interested personnel in location and time at MDOT convenience.

Other Items such as: Equipment accessories, including software, cables, carrying cases, tripods, leveling rods, tribrach's, prisms, etc. must be available from the awarded vendor/s inventory, or catalog, at similarly discounted prices.

MDOT also can, and may, request any service parts and training to repair any models sold to MDOT by equipment vendors. Request must be responded to within 14 working days and must contain a complete itemized list for review by MDOT Program Manager or designee. Training not able to be held onsite at MDOT office will be the responsibility of the vendor to accommodate offsite training as part of the cost of the training. At the time of any specific training the vendor will include: Demonstration items to repair, all necessary tools that will become MDOT property, and setup and configuration of all specialized software on MDOT computers. Requests that are denied will be considered a default of the Contract and are subject to penalties or revoking of Contract.

Requirements

1. Specifications

1.1 The Contractor must provide the following:

Contractor agrees to supply all items described in Schedule B - Pricing with regard to:

Quantity – The State is not obligated to purchase in any specific quantity

Quality – Must be free from Defects, Software issues, and other performance issues. The Contractor may send personnel to MDOT to resolve or verify claims. Replacement items will be required to be sent to MDOT within 48 of notice to Contractor at Vendors expense.

New or used – New is required, unless the item is no longer in production and is required by MDOT to use legacy equipment. A warranty of used equipment will be equal or better than new standards. Used Item WILL need to be approved and in the quote.

Repairs – Must be performed and returned within 30 days of contactor receipt.

Maintenance, parts, supplies – As mentioned in Statement of Work

Qualified products list - All products and services from vendor

1.2 Warranties

Repairs and replacements will be handled by the Contractor. Items are warranted against manufacturer defects.

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

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

Neither the Contractor nor any affiliates, nor any employee of either, has, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to the State or otherwise create an appearance of impropriety with respect to the award or performance of this Contract. The Contractor must notify the State about the nature of any conflict or appearance of impropriety within two days of learning about it.

The Contractor represents and warrants that the equipment/system(s) are in good operating condition and perform to the requirements contained in this Contract at the time of Final Acceptance, and for a period of one year following Final Acceptance.

To the extent the Contractor is responsible for maintaining equipment/system(s), the Contractor represents and warrants that it will maintain the equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance according to the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor agrees that all warranty service it provides must be performed by Original Equipment Manufacturer (OEM) trained, certified, and authorized technicians.

The State reserves the right to require additional warranties other than those identified by the Contractor in its response to the RFP.

1.3 Recall Requirements and Procedures

Contractor will pick up or receive by freight any recall item and correct issue.

1.4 Quality Assurance Program

The Contractor agrees to replace or repair to factory specifications.

2. Service Levels

2.1 Time Frames

All Contract Activities must be delivered within **21** business days from receipt of order, herein noted to be upon receipt of PO via fax or email. The receipt of order date is pursuant to Section 2, Notice Provisions of the Standard Contract

2.2 Delivery

Delivery is expected within **21** business days of the date vendor receives order/PO. Delivery will be made at Lansing Design Surveys Offices located at 425 West Ottawa Street, Lansing MI, 48909, unless specifically requested in a PO submitted to the Contractor.

2.3 Installation

Installation will be expected within **30** calendar days of the date vendor receives order/PO. Installation will be considered complete when Contractor receives final approval in writing from the MDOT Program Manager.

2.4 Technical Support and Repairs

When providing technical support, the Call Center/Key Contact must resolve the caller's issue within **360 minutes** (6 hours). If the caller's issue cannot be resolved within **24 hours**, on-site service must be scheduled. The on-site service must be performed within **72 hours** of the time the issue was scheduled for service.

2.5 Maintenance

On-site maintenance/services issues must be performed according to the recommended manufacturer maintenance schedule. Unless repairs are required in a controlled environment.

2.6 Training

The Contractor must provide training when new equipment versions are purchased. This includes training for more than 30 individuals, in both large and small groups, on hardware and related software. Contractor must also be able to provide training as Continuing Education Units (CEU's) for attendees, at no additional costs, to government licensed professionals.

2.7 Reporting

The Contractor agrees to provide reports requested by the State.

2.8 Meetings

The State may request other meetings as it deems appropriate throughout the life of the contract.

3. Staffing

3.1 Contractor Representative

The Contractor must appoint a minimum of one (1) Project Manager, 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 "Project Manager"). The Contractor must notify the Contract Administrator at least **14** calendar days before removing or assigning a new Project Manager.

John Lindstrom
5700 Aurelius Rd. Suite 500
Lansing, MI 48911

3.2 Customer Service Toll-Free Number

The Contractor's toll-free number - 800-440-6500 - is for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 7 am to 5 pm EST.

3.3 Technical Support, Repairs and Maintenance

The Contractor's toll-free/direct number - 800-440-6500 – is for the State to make contact for technical support, repairs and maintenance issues. The Contractor must be available for calls and service during the hours of 7 am to 5 pm EST. Maintenance and repair parts will be required to be available for items valued \$5,000 or above to the State of Michigan for a minimum of 15 years from the date of purchase. Models with identical part numbers older than the last item purchased will still be covered as well to the last date of final part number.

3.3 Disclosure of Subcontractors

If at any point the Contractor intends to utilize subcontractors, the Contractor must disclose the following: (a) The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities. (b) The relationship of the subcontractor to the Contractor. (c) Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship. (d) A complete description of the Contract Activities that will be performed or provided by the subcontractor.

3.4 Security

The Contractor agrees to abide by the State's security measures including but not limited to wearing logoed shirts/uniforms, using State-issued visitor badges while on State property, refraining from leaving doors open when delivering products, and not allowing unauthorized people to accompany them into State facilities. The Contractor agrees to provide contact information of the people coming to perform work for the State at least 24 hours prior to arriving for onsite work/training. A valid government ID will be required for the individuals to enter State facilities. Background checks may be required which would need more time for processing.

4. Pricing

4.1 Price Term

Pricing is firm for a 365 day period (The State fiscal year October 1st to September 30th of the following year). The first pricing period begins on the Effective Date. Adjustments may be requested, in writing, by either party and will take effect no earlier than the next Pricing Period. All available items (found on Schedule B – Pricing) should be listed by model, part, or other unique identifier, and provided at the time of bid submission to MDOT. Any quoted prices for new items the Contractor sell shall remain consistent until the end of the fiscal year until a new list is provided.

4.2 Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

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

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

5. Ordering

5.1 Authorizing Document

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

5.2 Order Verification

The Contractor must have internal controls, approved by DTMB-Procurement, to verify abnormal orders and to ensure that only authorized individuals place orders.

6 Delivery

6.1 Delivery Programs

The Contractor will hand deliver products or utilize UPS for delivery of the Contract Activities.

6.2 Packaging and Palletizing

Packaging must be optimized to permit the lowest freight rate. Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets. All palletized deliveries are required to appear at a State-owned facility during normal business hours. Deliveries showing up at the close of business or after hours will be turned away until the next business day.

7. Acceptance

7.1 Acceptance, Inspection and Testing

The State will determine acceptance of the Contract Activities as: All deliveries are subject to approval after MDOT Program Manager or designee personnel have opened and approved the products. Deliveries accepted by DTMB mailroom services DO NOT inspect items for damage. Other than physical damage noted by personnel they are "Not Accepting an AS-IS" product to dispute with the shipper. The contractor will replace the defective or broken item and dispute damages with the shipper directly.

7.2 Final Acceptance

All products will be deemed accepted once all items in the order have been received and properly invoiced.

8. Invoice and Payment

8.1 Invoice Requirements

All invoices submitted to the State must include: (a) Contract number; (b) date; (c) purchase order number; (d) quantity; (e) description of the Contract Activities; (f) unit price; (g) shipping cost (if any); and (h) total price. Invoicing should be received within 14 days of final shipment.

Orders made in the month of September should be received before September 30th to prevent a delay in payment to Contractor

8.2 Payment Methods

The State will make payment for Contract Activities by Electronic Funds Transfer (EFT) as described in Standard Contract Terms, Section 20.

8.3 Procedure

Payment will be processed and paid for in the standard State of Michigan process (EFT) and may take 2-4 week for final payment contrary to the invoicing terms. There will not be any fee or interest accrued during this period.

9. Additional Requirements

9.1 Environmental and Energy Efficient Products

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

9.2 Hazardous Chemical Identification

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

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

9.3 Mercury Content

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

9.4 Brominated Flame Retardants

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

9.5 Licensing Agreement

The Contractor must provide a copy of any applicable licensing agreement.

9.6 Key Personnel

The Contractor must appoint a minimum of 2 individuals 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.

Contractor Representative

John Lindstrom & Mark TenHove
5700 Aurelius Rd. Suite 500
Lansing, MI 48911

Contractor's Key Personnel must be available via email or phone during the following times: 7:00am – 4:00pm

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

9.7 Non-Key Personnel

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

9.8 Organizational Chart

The Contractors overall organizational chart that details staff members, by name and title, subcontractor, and contact information (direct lines and email) can be found at www.michigansurveyorssupply.com

10. Service Level Agreements (SLAs) (instead of Liquidated Damages)

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work Damages for items not repairable according to section 3.3.

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

The State is entitled to collect \$100 per individual per day for the removal of any Key Personnel without prior approval of the State. The State is entitled to collect \$100 per individual per day for an unapproved or untrained key personnel replacement.

Any Items not received by MDOT by September 30th of fiscal year ordered are considered incomplete and unacceptable. These items will be returned to the Contractor at their cost and no payment will be sent for those items returned. Invoicing will be sent within the 14-day period reflecting these changes or the entire order will be canceled.

If State of Michigan receives a denial of service the Contractor at the date of refusal will be required to replace the item with a similar item that will have the all of following deductions: (a). The current contracted discount with the State of Michigan or the value at the time of this Contract, whichever is greater. (b). Trade in value. (c). A proration of the value of service in months remaining (months remaining / term of the life of 15 year in months) * 100.

Schedule B - Pricing

Michigan Surveyors Supply Equipment List				Multi-Unit Purchase Discount Program			
Category/Title	Manuf. Name	Model #	Unit Purchase Price	0-2 Units % Discount	3-4 Units % Discount	5-6 Units % Discount	9 or More Units% Discount
CORS (Continuously Operating Reference Stations) and RTN (Real Time Networks) based equipment	<u>Trimble</u>	<u>NETR9 Ti-2</u>	<u>\$19,000.00</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
Geodetic Grade - Global Positioning System (GPS) Receivers	<u>Trimble</u>	<u>R8s</u>	<u>\$21,559.85</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
		<u>R10</u>	<u>\$31,659.85</u>				
Fully Robotic Total Stations	<u>Trimble</u>	<u>S5</u>	<u>\$36,667.85</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
		<u>S7</u>	<u>\$40,167.85</u>				
Non-Robotic Total Stations	<u>Nikon</u>	<u>DTM-322+</u>	<u>\$4,100.00</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
Digital levels	<u>Trimble</u>	<u>Dini .3</u>	<u>\$7,300.00</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
Automatic levels	<u>Sokkia</u>	<u>B40</u>	<u>\$295.00</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>
High Definition Scanning/3D Laser Scanners	<u>Trimble</u>	<u>TX8</u>	<u>\$83,785.00</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
Geographic Information Systems Grade - GPS Receivers	<u>Trimble</u>	<u>Geo7x Subfoot</u>	<u>\$9,490.00</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
Real-Time Monitor Equipment and Services	<u>Trimble</u>	<u>S7-T4D</u>	<u>\$48,769.80</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>