STATE OF MICHIGAN PROCUREMENT

Department of Education
608 W. ALLEGAN ST., LANSING, MICHIGAN 48933
P.O. BOX 30008, LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **5**
to
Master Agreement Number **180000000695**

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CXXXX8844

STATE			
	Program Manager	Karren Reish	MDE/LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Carol Munroe	MDE/OFM
		517-241-3329	
		munroec@michigan.gov	

CONTRACT SUMMARY			
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 15, 2018	April 30, 2021	Three 1-year	April 30, 2024
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days			
MINIMUM DELIVERY REQUIREMENTS			
No minimum quantity			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
☐ P-card	☐ Payment Request (PRC)	☐ Other	☐ Yes ☒ No

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☒	3 yr. & 5 mo.	9/30/2027

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$1,325,000.00	NA	$1,325,000.00

Effective February 9, 2024, the following will be in effect:

Contract term is extended to 9/30/2027 – Three years - 5 months. All Terms, Conditions, Pricing, Statement of Work remain the same. DTMB MOA, LIBRARY 2016 PA 540, Sec.10 MCL 397.20

All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency Agreement, and State Administrative Board approval.

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

1/8/2024

Date

FOR THE STATE:

Department of Education

Signature

Diane L. Golzynski, Ph.D., R.D.N., SNS.
Deputy Superintendent

Name/Title

1/31/24

Date

STATE OF MICHIGAN PROCUREMENT

Department of Education
608 W. ALLEGAN ST., LANSING, MICHIGAN 48933
P.O. BOX 30008, LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **4**
to
Master Agreement Number **180000000695**

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CXXXX8844

STATE			
	Program Manager	Karren Reish	MDE/LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Carol Munroe	MDE/OFM
		517-241-3329	
		munroec@michigan.gov	

CONTRACT SUMMARY			
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 15, 2018	April 30, 2021	Three 1-year	April 30, 2024
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days			
MINIMUM DELIVERY REQUIREMENTS			
No minimum quantity			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
☐ P-card	☐ Payment Request (PRC)	☐ Other	☐ Yes ☒ No

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		4/30/2024

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$725,000.00	$600,000.00	$1,325,000.00

Effective April 19, 2023, the following will be in effect:

1. Contract value increased by $600,000.00 for FY23
2. State Contract Administrator changed to Carol Munroe

All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency Agreement, and State Administrative Board approval.

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

3/14/23

Date

FOR THE STATE:

Department of Education

Signature

Diane L. Golzynski, Ph.D., R.D.N., SNS
Interim Deputy Superintendent

Name/Title

4/13/23

Date

STATE OF MICHIGAN PROCUREMENT

Department of Education
608 W. ALLEGAN ST., LANSING, MICHIGAN 48933
P.O. BOX 30008, LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **3**
to
Master Agreement Number **180000000695**

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CXXXX8844

STATE			
	Program Manager	Karren Reish	MDE/LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Tanmay Desai	MDE/OFM
		517-241-2170	
		desait@michigan.gov	

CONTRACT SUMMARY

Library Collection Materials Vendor (Book Jobber) – for Library of Michigan

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 15, 2018	April 30, 2021	Three 1-year	April 30, 2024

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 Days	

MINIMUM DELIVERY REQUIREMENTS
No minimum quantity

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Payment Request (PRC)	☐ Other	☐ Yes	☒ No

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		4/30/2024

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$475,000.00	$250,000.00	$725,000.00

Effective August 8, 2022 the following will be in effect:

1. Contract value increased by $250,000.00

All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency Agreement, and State Administrative Board approval.

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

7/6/22

Date

FOR THE STATE:

Department of Education

for Kyle L. Guerrant

Signature

Kyle L. Guerrant / Deputy Superintendent

Name/Title

7/27/22

Date

STATE OF MICHIGAN PROCUREMENT

Department of Education
608 W. ALLEGAN ST., LANSING, MICHIGAN 48933
P.O. BOX 30008, LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Master Agreement Number **180000000695**

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CXXXX8844

STATE			
	Program Manager	Karren Reish	MDE/LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Tanmay Desai	MDE/OFM
		517-241-2170	
		desait@michigan.gov	

CONTRACT SUMMARY

Library Collection Materials Vendor (Book Jobber) – for Library of Michigan

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 15, 2018	April 30, 2021	Three 1-year	April 30, 2021

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 Days	

MINIMUM DELIVERY REQUIREMENTS
No minimum quantity

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Payment Request (PRC)	☐ Other	☐ Yes	☒ No

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	3 years	☐		4/30/2024

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$350,000.00	$125,000.00	$475,000.00

Effective November 10, 2020 the following will be in effect:

1. Contract value increased by $125,000.00
2. All three (3) 1 year renewal options exercised. – Term extended to April 30, 2024

All other terms, conditions, specifications, and pricing remain the same. Per Contractor, Agency Agreement, and State Administrative Board approval.

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

10/26/2020

Date

FOR THE STATE:

Department of Education

Signature

Kyle Guerrant / Deputy Superintendent

Name/Title

11/7/20

Date

STATE OF MICHIGAN PROCUREMENT

Department of Education
608 W. ALLEGAN ST., LANSING, MICHIGAN 48933
P.O. BOX 30008, LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **1**
to
Master Agreement Number **180000000695**

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CXXXX8844

STATE			
	Program Manager	Karren Reish	LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Ruth Thole	OFM
		517-241-2170	
		TholeR@michigan.gov	

CONTRACT SUMMARY			
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 15, 2018	April 30, 2021	Three 1-year	April 30, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days			
MINIMUM DELIVERY REQUIREMENTS			
No minimum quantity			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
☐ P-card	☐ Payment Request (PRC)	☐ Other	☐ Yes ☒ No

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		No change

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$150,000.00	$200,000.00	$350,000.00

Effective October 22, 2019, this Contract is increased by $200,000.00 and the following Byrd Anti-Lobbying Certification is added to the Contract Terms.

All other terms, conditions, specifications, and pricing remain the same.

Per contractor and agency agreement, and State Administrative Board approval on October 22, 2019.

Byrd Anti-Lobbying Certification

The following certification and disclosure regarding payments to influence certain federal transactions are made under FAR 52.203-11 and 52.203-12 and 31 USC 1352, the "Byrd Anti-Lobbying Amendment." Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. FAR 52.203-12, "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification.

2. The bidder, by submitting its proposal hereby certifies to the best of his or her knowledge and belief that:

   a. No federal **appropriated** funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;

   b. If any funds **other than federal appropriated funds** (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf **in connection with this solicitation**, the bidder must complete and submit, with its proposal, OMB standard form LLL, Disclosure of Lobbying Activities, to the Solicitation Manager; and

   c. He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of $150,000 must certify and disclose accordingly.

3. This certification is a material representation of fact upon which reliance is placed at the time of Contract award. Submission of this certification and disclosure is a prerequisite for making or entering into this Contract under 31 USC 1352. Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision is subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

Signed by:

Emery-Pratt

Company/Contractor Name

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

10/10/2019

Date

FOR THE CONTRACTOR:

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

10/10/2019

Date

FOR THE STATE:

Department of Education

Signature

Kyle Guerrant / Deputy Superintendent

Name/Title

10-15-19

Date

STATE OF MICHIGAN
ENTERPRISE PROCUREMENT

Department of Education
608 W. Allegan, Lansing MI 48933
P.O. Box 30008, Lansing, MI 48909

NOTICE OF CONTRACT

CONTRACT NO. 180000000695
between
THE STATE OF MICHIGAN
and

CONTRACTOR	
	The Emery-Pratt Company 1966 West M-21 Owosso, MI 48867
	Byron E. Shattuck, President
	800-248-3887
	Byron.Shattuck@emery-pratt.com
	CV0018844

STATE			
	Program Manager	Karren Reish	LM
		517-241-0021	
		ReishK@michigan.gov	
	Contract Administrator	Ruth Thole	OFM
		517-241-2170	
		TholeR@michigan.gov	

CONTRACT SUMMARY			
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan			
INITIAL TERM	**INITIAL EFFECTIVE DATE**	**INITIAL EXPIRATION DATE**	**INITIAL AVAILABLE OPTIONS**
Approx 3 years	May 15, 2018	April 30, 2021	Three 1-year
PAYMENT TERMS		**DELIVERY TIMEFRAME**	
Net 45 Days			
ALTERNATE PAYMENT OPTIONS			**EXTENDED PURCHASING**
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes ☒ No
MINIMUM DELIVERY REQUIREMENTS			
No minimum quantity			
MISCELLANEOUS INFORMATION			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION		**$150,000.00**	

FOR THE CONTRACTOR:

The Emery-Pratt Company

Authorized Agent Signature

Byron E. Shattuck / President

Authorized Agent (Print or Type) / Title

05 / 16 / 2018

Date

FOR THE STATE:

Department of Education

Signature

Kyle Guerrant / Deputy Superintendent

Name/Title

5-21-18

Date

STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and the Emery-Pratt Company (the **Contractor**), a Michigan corporation. This Contract is effective May 15, 2018 ("**Effective Date**"), and unless terminated, expires on April 30, 2021.

This Contract may be renewed for up to three (3) additional one-year periods. 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**").

   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) not make any media releases without prior written authorization from the State; (h) 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; and (i) 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 be clearly identifiable while on State property 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:
   Ruth Thole
   Department of Education
   608 W. Allegan Street
   Lansing, MI 48933
   TholeR@michigan.gov
   517-241-2170

   If to Contractor:
   Byron E. Shattuck
   The Emery-Pratt Company
   1966 West M-21
   Owosso, MI 48867
   Byron.Shattuck@emery-pratt.com
   800-248-3887

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:
Ruth Thole
Department of Education
608 W. Allegan Street
Lansing, MI 48933
TholeR@michigan.gov
517-241-2170

Contractor:
Byron E. Shattuck
The Emery-Pratt Company
1966 West M-21
Owosso, MI 48867
Byron.Shattuck@emery-pratt.com
800-248-3887

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:
Karren Reish
Library of Michigan
702 W. Kalamazoo St.
Lansing, MI 48933
ReishK@michigan.gov
517-241-0021

Contractor:
Byron E. Shattuck
The Emery-Pratt Company
1966 West M-21
Owosso, MI 48867
Byron.Shattuck@emery-pratt.com
800-248-3887

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.

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	
Minimal Limits: $1,000,000 Each Occurrence Limit $1,000,000 Personal & Advertising Injury Limit $2,000,000 General Aggregate Limit $2,000,000 Products/Completed Operations Deductible Maximum: $50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Automobile Liability Insurance	
Minimal Limits: $1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
Minimal Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimal Limits: $500,000 Each Accident $500,000 Each Employee by Disease $500,000 Aggregate Disease.	

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 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. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in the Contract. Contractor, its employees, and agents are not 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

8. **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.

10. **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.

11. **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.

12. **Ordering.** Contractor is not authorized to begin performance until receipt of an authorizing Delivery Order.

13. **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 15, 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.

14. **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/SIGMAVSS 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.

15. **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 16, 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.

16. **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 17, 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.

17. **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.

18. **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 defence of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defence 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 defence 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.

19. **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.

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

21. **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.

22. **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.

23. **Confidentiality**. Contractor agrees that any information, including State Data, disclosed by the State in relation to the Contract will be used only in the performance thereof. Contractor will keep the information confidential, will not disclose it to any third party, except as authorized by the State, and will only disclose it to those within its organization who need it for performance of the Contract. Upon completion or termination of the Contract, Contractor will return all such information to the State, or make such other disposition thereof as directed or approved by the State. No item furnished under the Contract, or tools, plans, designs, or specifications for producing the same, which have been specifically designed for or by the State, will be duplicated or used by Contractor. Nothing in this provision will restrict Contractor's right to use or disclose any information which is or becomes known to the public without breach of this provision by Contractor, or is rightfully obtained without restriction from other sources.

24. **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.

25. **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; (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; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 15, Termination for Cause.

26. **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.

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

28. **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.

29. **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.

30. **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.

31. **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.

32. **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.

33. **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.

34. **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.

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

36. **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.

37. **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.

38. **Waiver.** Failure to enforce any provision of the Contract, or these terms, for any period of time will not constitute a waiver.

39. **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.

40. **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.

Addendum – Federal Provisions

The provisions in this addendum may apply if the purchase will be paid for in whole or in part with funds obtained from the federal government. If any provision below is not required by federal law for this Contract, then it does not apply and must be disregarded. If any provision below is required to be included in this Contract by federal law, then the applicable provision applies and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

CERTIFICATIONS REGARDING DEBARMENT AND SUSPENSION; DRUG-FREE WORKPLACE REQUIREMENTS; LOBBYING; and FEDERAL DEBT STATUS

1. **DEBARMENT AND SUSPENSION.** The Contractor shall comply with 2 CFR Part 3185. The Contractor certifies that neither the Contractor nor any of its principals:

   A. Are presently excluded or disqualified;

   B. Have been convicted within the preceding three years of any of the offenses listed in 2 CFR section 180.800(a) or had a civil judgment rendered against you for one of those offenses within that time period.

   C. Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in 2 CFR section 180.800(a); or

   D. Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

   Where the Contractor is unable to certify to any of the statements in this certification, the Contractor shall attach an explanation to this application.

   The Contractor, as a party to a first-tier procurement contract, is required to comply with 2 CFR Part 180 Subpart C (Responsibilities of Participants Regarding Transactions Doing Business With Other Persons) as a condition of participation in the contract.

2. **DRUG-FREE WORKPLACE REQUIREMENTS.** The Contractor must comply with drug-free workplace requirements in subpart B of 2 C.F.R. part 3186, which adopts the Government-wide implementation (2 C.F.R. part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (P. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701-707).

   The Contractor certifies that the contractor will or will continue to provide a drug-free workplace by taking actions such as, but not limited to:

   A. making a good faith effort, on a continuing basis, to maintain a drug-free workplace;

   B. publishing a drug-free workplace statement;

   C. establishing a drug-free awareness program for the contractor's employees;

   D. taking actions concerning employees who are convicted of violating drug statutes in the workplace; and

   E. identifying all known workplaces under its Federal awards.

3. **LOBBYING.** As required by Section 1352, Title 31 of the United States Code, and implemented for persons entering into a grant or cooperative agreement over $100,000, the Contractor certifies that

   A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

   B. If any funds other than appropriated Federal funds have been paid or will be paid to any person(other than a regularly employed officer or employee of the Contractor) for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an

employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall request, complete, and submit Standard Form LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.

4. **FEDERAL DEBT STATUS.** The Contractor certifies that the contractor is not delinquent in the repayment of any Federal debt.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, the Contractor certifies that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State,through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis- Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93- 205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

TRAFFICKING IN PERSONS

1. Provisions applicable to a recipient that is a private entity.

A. The Contractor, as the recipient, Contractor's employees, subrecipients under this Contract, and subrecipients' employees may not:

1) Engage in severe forms of trafficking in persons during the period of time that the Contract is in effect;

2) Procure a commercial sex act during the period of time that the Contract is in effect; or

3) Use forced labor in the performance of the Contract or subawards under the Contract

B. The State, as the Federal awarding agency, may unilaterally terminate this Contract, without penalty, if the Contractor or a subrecipient that is a private entity:

1) Is determined to have violated a prohibition in Section 43. A. 1) or

2) Has an employee who is determined by the agency official authorized to terminate the Contract to have violated a prohibition in Section 43. A. 1) through conduct that is either:

a) Associated with performance under this Contract; or

b) Imputed to the Contractor or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part

180,"OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by the State agency at 2 C.F.R. part 3185.

2. **Provision applicable to a recipient other than a private entity.** The State, as the Federal awarding agency, may unilaterally terminate this Contract, without penalty, if a subrecipient that is a private entity:

   A. Is determined to have violated an applicable prohibition in Section 43. A. 1); or

   B. Has an employee who is determined by the agency official authorized to terminate the Contract to have violated an applicable prohibition in Section 43. A. 1) through conduct that is either:

      1) Associated with performance under this Contract; or

      2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by the State agency at 2 C.F.R. part 3185.

3. **Provisions applicable to any recipient**

   A. The Contractor must inform the State immediately of any information Contractor receives from any source alleging a violation of a prohibition in Section 43. A. 1).

   B. The State's right to terminate unilaterally that is described in Section 43. A. or Section 43. B.:

      1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

      2) Is in addition to all other remedies for noncompliance that are available to the State under this Contract.

   C. The Contractor must include the requirements of Section 43. A in any subaward Contractor makes to a private entity.

4. **Definitions.** For purposes of this Contract term:

   A. "Employee" means either:

      1) An individual employed by the Contractor or a subrecipient who is engaged in the performance of the project or program under this Contract; or

      2) Another person engaged in the performance of the project or program under this Contract and not compensated by the Contractor including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

   B. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

   C. "Private entity:

      1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. part 175.25.

      2) Includes:

         a) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R part 175.25(b).

         b) A for-profit organization

   D. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

5. 2 C.F.R. part 175.15, Electronic Code of Federal Regulations at: https://www.gpo.gov/fdsys/granule/CFR-2012-title2-vol1/CFR-2012-title2-vol1-sec175-15

STATE OF MICHIGAN

Contract 180000000695
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan

SCHEDULE A
STATEMENT OF WORK
CONTRACT ACTIVITIES

This schedule identifies the requirements of the Contract.

1. BACKGROUND

The Library of Michigan (Library) is contracting purchasing services for books and other library materials, commonly known as a book jobber. The Library purchases and provides print books or ebooks for library workshop attendees; library science materials for loan to Michigan libraries; books for early literacy kits; as well as other materials typical to library collections. A contract for Book Jobber services will streamline the purchasing process for the Library by providing a single point of contact for library materials purchases.

There is no guarantee of either monthly orders or order amounts; the State is not obligated to purchase contracted services in any specific quantities or dollar amounts.

2. SCOPE

For this Contract, **library materials** will be defined as books in various formats and/or audio-visual materials, and other library collection materials. The Contractor will:

A. Work with over 200,000 publishing sources to negotiate book discounts and secure the best possible pricing.

B. Purchase both single items and items in bulk quantities as directed by the Library.

C. Ship items in bulk quantities to a single location as directed by the Library.

D. Repackage and drop-ship ordered materials to multiple locations as directed by the Library.

3. REQUIREMENTS

Contractor will work with the Library to provide popular, educational, technical, scientific and trade titles in various book formats and/or audio-visual materials.

A. The Contractor will order library materials from either the publisher with the best price or a specified publisher if noted by the Library. Materials will be obtained in the timeliest fashion available and from any source necessary to procure the materials.

B. The Contractor will accept orders via fax, interactive telephone order entry system, or online through www.emery-pratt.com. There is no minimum order quantity.

C. The Contractor will place orders within 48 hours of receipt of information from the Library. If order information is incomplete or additional information is needed, the Contractor will advise the Library and place orders within 24 hours of receipt of the complete or additional information.

D. The Contractor will ship library materials to requested locations. Orders will typically be shipped to the Library, located in Lansing, Michigan. However, the Contractor must drop ship orders to any location within the State when requested by the Library.

E. If drop shipment to other location(s) is required:

1) The Library will provide correct mailing addresses to the Contractor.

2) The Contractor will provide packaging materials for secondary shipping. The Contractor will obtain other specific packaging if needed for special projects.

3) The Contractor will sort, repack, and ship materials to locations as directed by the Library.

4) The Library will provide shipping account information for shipment billing.

4. STAFFING

A. **Key Personnel.** Byron E. Shattuck is assigned as the Contractor's Program Manager and 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.

The Contractor must notify the State's Contract Administrator at least 7 calendar days before removing or assigning a new Key Personnel.

Contractor will 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 **Standard Terms Section 15 Termination for Cause**.

B. **Customer Service Toll-Free Number.** The Contractor's toll-free number is 800-248-3887 for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm Eastern Time.

5. PROJECT MANAGEMENT

The Contractor will carry out this Contract under the direction and control of the State's Program Manager or designee. Communication will be primarily via email.

6. MEETINGS

The Library will request meetings when it deems appropriate. If the Library requests meetings to address issues or problems that arise, the Contractor must attend meetings in person.

7. REPORTING

Various reports will be available from the Contractor, including a two-year order history available at any time on the Contractor's website, emery-pratt.com. The Contractor will work with the Library to customize reports to furnish other information needed.

8. ORDER AUTHORIZING DOCUMENT

The appropriate authorizing document for the Contract will be a Delivery Order (DO) document issued by the Department of Education.

9. PRICING

A. **Price Schedule.** see Schedule B.

B. **Price Term.** Pricing is firm for the term of the Contract period ending April 30, 2021. Adjustments may be requested, in writing, by either party at the time a renewal option is requested.

C. **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.

10. INVOICE AND PAYMENT

A. **Invoices.** Invoices should be presented to the State's Program Manager or designee on a monthly basis for all work completed in the preceding month. Invoices should be broken down by project; price for library materials (goods) must be clearly identified and separated from services fee(s).

All invoices submitted to the State must include: (a) date; (b) Delivery Order number; (c) description of the project; (d) price for goods;(e) service fee(s); (f) number of hours (if applicable); (g) hourly rate (if applicable); and (h) total price.

B. **Payment.** Payment terms are Net 45 days. The State will make payment for Contract Activities by Electronic Funds Transfer (EFT).

STATE OF MICHIGAN

Contract 18000000695
Library Collection Materials Vendor (Book Jobber) – for Library of Michigan

SCHEDULE B
PRICE PROPOSAL

40% Discount off trade discounted material

15% Discount off technical & reference material

3% Discount off non-discounted material and all Standing Orders

Free shipping of books ordered and sent to one location; no fuel surcharges.

The Contractor will obtain best available pricing for drop-ships/special projects. Fees will be on a per package fee. A minimum of $5.00 per box, plus any applicable shipping fees, will apply per box.

CATALOGING / PROCESSING

PRICE LIST

Marc Records (provided by MARCIVE) includes preprinted labels for spine and book pocket ..... 75¢ ea

Labels Only (provided by MARCIVE) consisting of preprinted labels for spine and book pocket ..... 75¢ ea

OCLC Worldcat Cataloging - no charge - billed by OCLC preprinted labels - attached/unattached ..... 25¢ ea

SkyRiver Cataloging - no charge - billed by SkyRiver preprinted labels - attached/unattached ..... 25¢ ea

Bar code ..... 17¢ ea

Bar code Scan ..... 22¢ ea

Book Pocket (lined or unlined) ..... 35¢ ea

Circulation Card ..... 28¢ ea

Date Due Slip with adhesive strip ..... 27¢ ea

Book Jacket Cover - consists of a 1.5 mil polyester cover installed over the book jacket - attached or unattached ..... 87¢ ea

Property Stamping ..... per location 14¢ ea

Protective Label (over spine label or bar code) ..... 15¢ ea

Theft Detection Strip or Tag ..... 50¢ ea

RFID Tag ..... 75¢ ea

BINDING

Reinforced Laminate Binding ..... $8.15 ea

Premium Hardcover Binding ..... $8.85 ea

Easy Cover II (only) ..... $2.25 ea

Easy Cover II (includes Easy Bind reinforcement tape) ..... $2.76 ea

Pricing effective July 1, 2017