

Attachment C. BASIC TERMS AND CONDITIONS FOR SERVICES PROVIDED MERIT NETWORK, INC.

Project and Construction Requirements

- Engineered drawings and permit applications must be submitted to utility owner and Merit simultaneously.
- Final/Revised Engineered drawings and approved applications must be submitted and approved by Merit prior to construction.
- Contractor is responsible for all utility and ROW application/permitting/engineering fees and bonding.
- Contractor will prepare METRO ACT applications to Merit for submission.
- Merit is responsible for utility make-ready fees.
- All fiber installed to be permitted under and owned by Merit Network, Inc. unless otherwise approved by Merit.
- All fiber installed must be installed according to manufacturer specifications.
- Cables may not be upsized and build for other parties. Any other collaboration with another party must be disclosed to Merit.
- Fiber must be new, not repurposed fiber.
- Any new infrastructure (example handholes) damaged during installation must be replaced with new equipment prior construction completion.
- Contractor is responsible for all locates and repairs prior to completion and during construction. All repairs must be reported to Merit.
- Contractor to supply all OSP and ISP materials with the exception of Merit branded handhole lid markers, fiber tags, wraps, marker posts, locator posts.
- All disturbed property must be restored to original condition by contractor.
- Overlashing must be indicated in engineered drawings and permits and approved by Merit.
- All construction must comply with Merit Construction Standards specified in this Attachment, which include and incorporate by reference the National Electric Safety Code (NESC). The Merit Construction Standards also impose additional and sometimes more stringent requirements than the NESC requirements, and construction must comply with these additional requirements, including those additional requirements that are more stringent than the NESC requirements. Construction must also comply with all requirements imposed by: (i) permits, consents, and licenses obtained for the construction, including but not limited to pole attachment permits and road and other rights-of-way permits, and (ii) applicable laws.

Payment and other terms:

- Completion of as-builts, photography, and other deliverables must occur prior to payment.
- Any overages require the contractor to submit a change request to Merit for approval prior to incurring cost.

Project Stages for approvals for Permitting, Construction and Required Project Deliverables

Stage	Documents Required
1. Contractor is awarded bid by Merit.	• Merit Purchase Order
2. Contractor submits to Utility for approval and submits copies to Merit.	• Engineered Drawing (pdf) • Permit Application
3. Upon Utility approval, Contractor submits to Merit for approval.	• Approved Permits • Revised Drawings (pdf)
4. Upon Merit approval, Contractor begins and completes construction.	• Change requests for any overages
5. Within 48 hours weeks post-construction, Contractor submits to Merit.	• OTDR testing results (.sor)
6. Within 2 weeks post-construction, Contractor submits to Merit.	• Photographs in electronic files • Field Notes & Redline Asbuilts (pdf)
7. Within 4 weeks post-construction, Contractor submits to Merit.	• Revised CAD drawings (both dwg and pdf) • Final Permits • Invoice • Return of any infrastructure as requested in RFQ
8. If proper documentation is received and terms of RFQ have been met, Merit completes invoice payment.	

Attachment C. Merit Construction Standards

Merit Construction Standards

Aerial Construction		Fiber Requirements	
Slack Loop Size Minimum or as defined in SOW	150'	Support Strand Size	0.25 EHS
Maximum Distance Between Slack Loops or as defined in SOW	1500'	Fiber Type	SMF28-E Equivalent
Storage Loops	Must have snow shoes	Armored Cable unless not allowed by permit	Required
Splice Case Manufacturer with hangers	Tyco/Commscope	ADSS cable use	Approval required
Guy wire with guard/marker	Required	Bonded and Grounded	Every 1320 ft or 5 poles whichever is less
Insulator, riser guard	Must meet NESC 2017 standard	Dry, loose tube	Required
Lashing wire requirement	Dual Lash	Fiber tags	Required at all attachments
Uguard on risers	Required		
Tension	Manufacturer's stated maximum pulling tension are not be exceeded. Dynamometer or similar device must be used to measure the tension in the cable.		

NESC and Permit Requirements	Merit prefers to be top attacher for all aerial attachments. Engineered pole studies must specify attachments and mid-span heights under NESC heavy load conditions. Contractor is responsible to follow the proper make ready process. If other attachers need to move prior to Merit attaching, then the contractor will adhere to the pole owner's pertinent notification process. If coordination and communication is needed with other attachers, then the contractor will do so on Merit's behalf. Contractor shall not attach to the pole unless proper pole attachment and mid-span clearance is achieved in order to comply with all applicable permits and NESC heavy loading standards.
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Buried Construction		Fiber Requirements	
Handholes	Level with grade and in line with fiber running line or offset. Suitable backfill must be tamped around the hand hole. 4" base of pea gravel within the handhole.	Fiber Placement Depth	48" minimum unless greater standard is required by governing authority
Handhole Lid Rating	20k with Merit identifiers	Number of Conduit	Two with spare conduit sealed. Additional conduits may be requested in RFQ.
Storage Coil Size	small handhole - 100' large handhole - 200'	Conduit Size	1.25"
Storage Coil in every Handhole	Required	Conduit Type	HDPE - SDR 11
Maximum Distance Between Handhole	2000' or at 90 degree directional change	Spare conduit to be equipped With Pull Rope/mule tape	Required
Marker and locator post placement	behind every handhole so as not to hinder the opening of the handhole	Wire Size between locate post and splice case. No Tracer wire allowed between post and case.	6 gauge
Marker Post frequency/location	every 500', road crossing or as line of sight dictates	Rated Tracer Wire Size. Entrance drops must be installed inside the duct with the fiber cable.	14 gauge
Locator Posts	at every splice case and wherever tracer wire installed (riser)		

Attachment C. Merit Construction Standards (continued)

Buried Construction continued

Grounding	Any handhole that houses a splice case must have an 8ft ground rod installed. The top of the ground rod must be just above the base of the hand hole and just high enough to make your ground connection from the locate post to the rod. This connection is to be made using no less than a #6 awg solid, bare copper wire. If ground conditions make it impossible to drive the an 8ft rod completely in the vertical, then driving the rod at an angle is acceptable but should always be last resort.
Bonding	The splice cases must have two threaded studs that provide continuity from inside of the case to the exterior. The two studs that allow the isolation of direction if so desired when applying tone to the cable.
	Tracer wire is NOT to be used as the conductor between the splice enclosure and locate post or test post. A conductor of no less than a #6 stranded and insulated must be used to make this connection.
Locate Post/Test Station installation	With a #6 stranded wire, connect to one or both of the threaded studs on the splice can which depends on the number of cable directions. The #6 is then run under the handhole and then up into the locate post and terminated to any of the non-common threaded posts. If installing #6 stranded at an existing splice point that previously was not setup with a locate post, it is allowable to drill a small hole into the side of the handhole to allow the #6 ground and locate wire to be run from the splice case to the locate post.
	Locate posts must be set back 2 ft behind the handhole so as not to inhibit personnel from working in and around the hole. Posts must not be installed on either end so as to inhibit removal of the handhole lid. Locate posts height must be installed between 4 – 5 ft high and vertically plumb. #6 awg solid bare non insulated is the type of conductor to connect the locate post. #6 awg stranded and insulated must be used as the conductor for tone leads. The locate post and testing must be installed as depicted in Attachment C. Merit Construction Standards Diagram.
Conduit Sealing	Conduits entering the hand hole must be stubbed 6”– 12” above base and sealed in with foam or duct tape.
Handhole other requirements	Windows cuts into the side wall of the hand hole to provide conduit access are NOT allowed.
	The carving out of poly jacketing to allow access to the metallic sheath for toning is NOT an acceptable practice and is NOT allowed on Merits plant.

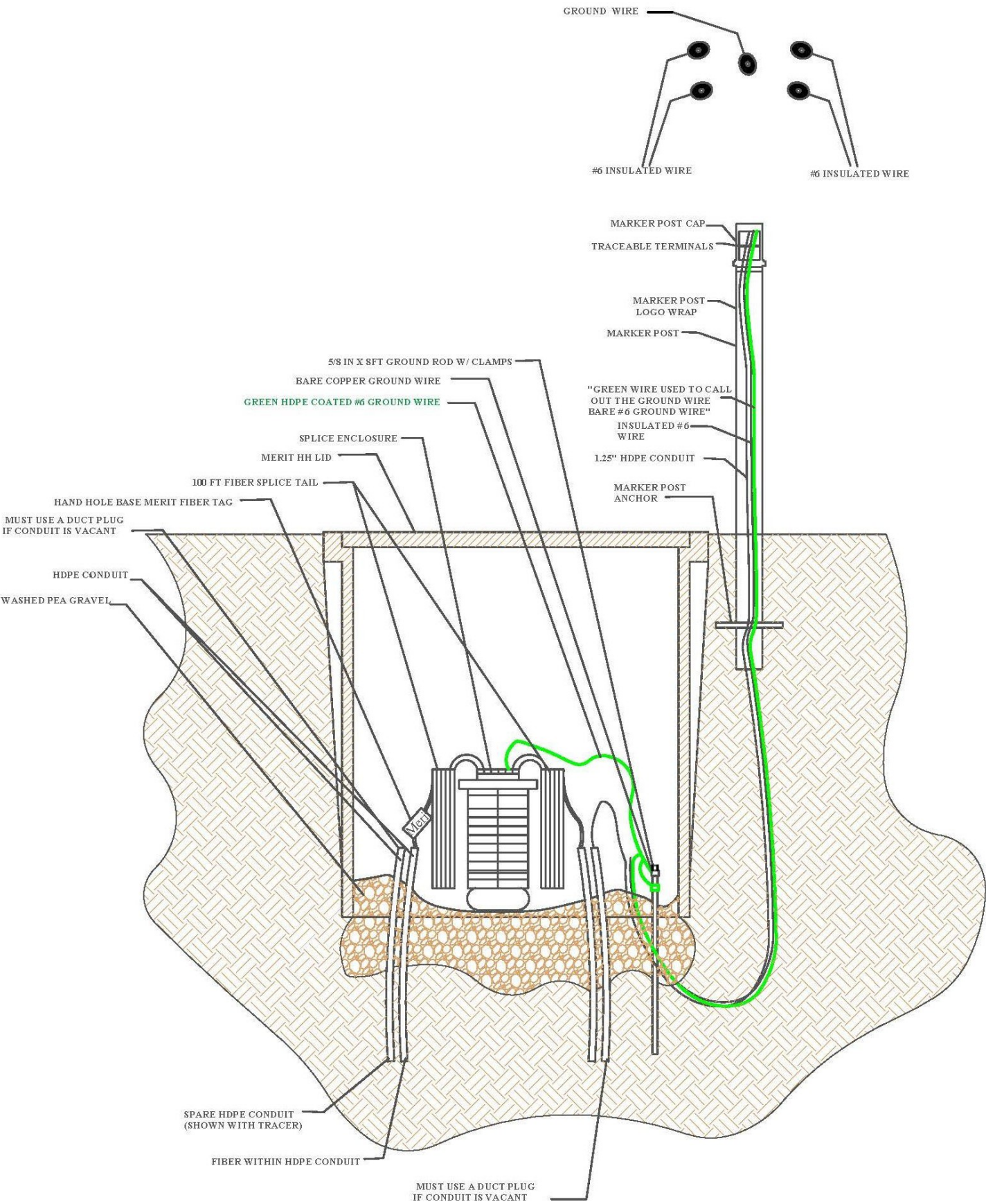
Testing & Splicing Requirements

Underground construction, records of depths taken during construction must be captured at the following frequency or location	50 ft or at any point when crossing utilities or known underground structure
OTDR readings	The uni-directional OTDR data must be delivered to Merit as .SOR files. PDF and TRC files will not be accepted unless variance is granted by Merit Engineering. If test access at A or Z end for field personal is an issue, bare fiber testing at the time of splicing is acceptable.
Fusion splice	Use of mechanical splices not permitted anywhere on the project. All fusion splices will have less than 0.15 dB loss using 1550nm optical source. The test will be bi-directional with no splice loss being greater than 0.15 dB. Terminations will have loss less than 0.4 dB using 1550nm optical source. Testing methods will apply industry standard TIA-472DOOO-B Section 8.2.1 (Telecommunications Industry Association) using OTDR as the measurement device.

Documentation Requirements

All As-builts must include	Key map with grid style as-built Pole with owner and pole ID Fiber count Major utility crossings, rivers, streams, lakes Slack loop with in out footage, latitude and longitude Splice cases with latitude and longitude Model of splice case - 450B or 600D Number of fiber cables entering the splice case In/out footages of storage loops Any overlashing
As-builts must also include for aerial construction	Over the road fiber height including railroad, waterways, public roads, commercial driveways, private driveways, alleys, bike paths, two tracks, etc. Merit pole attachment height and Merit mid-span height Other communication attachment heights Closet power attachments to Merit
As-builts must also include for underground construction	Handholes with latitude and longitude Depths of buried fiber Offset from edge of curb, rail, ROW
Photography required	Photos are required after construction including proof of ground restoration Every pole along with every point of attachment Running line Every handhole taken in a wide-view

Attachment C. Merit Construction Standards Diagram



The following terms and conditions shall be observed. Any Supplier terms and conditions included with Supplier's invoice or any other document provided by Supplier shall be of no effect.

1.0 No Document Modifications. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by both parties.

2.0 Performance Standard. Supplier agrees to perform the services to the satisfaction of Merit Network and with the standard of care and skill of an expert regularly rendering services of the type required by this Agreement and in conformance with state and federal law.

3.0 Acceptance. Merit Network shall have a reasonable time (but not less than thirty [30] days) after provision of the services to inspect and/or evaluate the services provided under this Agreement and reject any or all items that are nonconforming or defective. Any acceptance by Merit Network shall not be deemed a waiver or settlement of any defect or nonconformity in the services.

4.0 Warranties and Representations of Supplier. Supplier acknowledges that Merit Network is relying on these representations and warranties as essential elements to this Agreement, representing as they do, material inducements, without which the Merit Network would not have entered into this Agreement.

4.1 General Services Warranty. Supplier warrants that all services provided shall conform to the level of quality performed by experts regularly rendering this type of service. Supplier warrants for ninety (90) days after accepted completion of a requested service that its services are fully satisfactory to Merit Network and will repair, replace or redo at no additional cost to the Merit Network any unsatisfactory services.

4.2 Qualifications. Supplier warrants that it, as well as its employees, agents and subcontractors engaged to provide items or services under this Agreement (collectively "Supplier Personnel"), has and will maintain all the skills, experience, and qualifications necessary to provide the services contemplated by this Agreement, including any required training, registration, certification or licensure.

4.3 Conflict of Interest. Supplier warrants that to the best of Supplier's knowledge, there exists no actual or potential conflict between Supplier and Merit Network, and its services under this Agreement, and in the event of change in either Supplier's private interests or services under this Agreement, Supplier will inform Merit Network regarding possible conflict of interest which may arise as a result of the change. Supplier also affirms that, to the best of Supplier's knowledge, there exists no actual or potential conflict between a Merit Network employee and Supplier.

4.4 Nondiscrimination. Supplier warrants that Supplier is an equal opportunity employer and that, during the performance of this Agreement, it will comply with Federal Executive Order 11246, as amended, The Rehabilitation Act of 1973, as amended, and its regulations, and the Michigan Civil Rights Act of 1976.

4.5 Good Standing. Supplier warrants that Supplier is a legally organized entity in good standing under the laws of the state of its organization and, where required, in good standing under the laws of the State of Michigan.

4.6 Noninfringement. Supplier warrants that the Supplier's services and/or Merit Network's use of products, processes, techniques and methodologies provided by Supplier or developed by Supplier shall not infringe upon the copyright, patent or other proprietary rights of others.

4.7 Bonded. Supplier warrants that it is bonded as may be required by law for the services.

5.0 Payment Terms. Payment shall not be due prior to thirty (30) days (a) from the date the invoice is received by Merit Network at the address indicated in the "Bill To" field on the face of the purchase order or (b) from the date the services are performed, *whichever is later*. Invoices presented for payment must be submitted to the correct address for processing. Merit Network may withhold payment in whole or in part for services found by Merit Network to be defective, untimely, unsatisfactory, or otherwise not conforming to the services description, or not in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations.

6.0 Termination. Merit Network may terminate this Agreement in whole or in part for its sole convenience upon thirty (30) days prior notice. Upon notice of termination, Supplier shall immediately stop all work and cause its suppliers and/or subcontractors to cease their work related to this Agreement. Supplier shall be paid for services satisfactorily provided or performed. In no event shall Supplier be paid for costs incurred or support services performed after receipt of notice of termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided. Merit Network may terminate the Agreement in whole or in part for cause upon seven (7) days written notice if Supplier fails to comply with any material term or condition of this Agreement. Late performance of services or delivery of services that are defective or do not conform to Merit Network's specifications shall, without limitation, be causes allowing Merit Network to terminate for cause. In this event, Merit Network will not be liable for any amounts; but Supplier shall be liable to Merit Network for all losses, damages, and expenses, including, without limitation, the

excess cost of reprocurring similar services. If a determination is made that Merit Network improperly terminated the Agreement for cause, then the termination shall be deemed to have been for the Merit Network's convenience.

7.0 Compliance with Laws, Policies & Procedures. To the extent applicable to the Services, Supplier shall fully comply with all federal, state, local, and Merit Network rules, regulations, ordinances, policies and licenses, including applicable building policies and procedures, federal and state false claims and false statements laws, as well as information about whistleblower protection under these laws. Supplier agrees to further disseminate information about applicable Merit Network policies, as necessary, to ensure that all Supplier Personnel and subcontractors, as applicable, involved in performing the Services are aware of the existence of applicable Merit Network policies as well as how and where to make reports to Merit Network regarding any compliance concerns. To the extent that Merit Network policies provide for reviews or audits of claims or services arising from this Agreement, Supplier agrees to participate in such audit insofar as it is relevant and applicable to Supplier and Supplier Personnel's interaction with Merit Network. If Supplier identifies potential non-compliance with any applicable laws, regulations or policies in connection with the provision of the Services, Supplier shall promptly contact Merit Network and provide details concerning the suspected wrongdoing sufficient to facilitate an investigation by Merit Network. Supplier shall be solely responsible for insuring that any recommendations made in connection with the Services comply with all applicable federal, state, local and Merit Network laws, rules, regulations, policies and procedures. Unless otherwise expressly provided for in this Agreement, Supplier shall obtain and comply with all permits, licenses and similar authorizations that are necessary to provide the Services. By executing this Agreement, Supplier warrants and represents that it has all legally required licenses and permits needed to perform the Services.

8.0 Patents, Copyright, Data and Documents.

8.1 Patent Application. Whenever any invention or discovery is made or conceived by Supplier in the course of or in connection with this Agreement, Supplier shall furnish to the Merit Network, within thirty (30) days of the creation or conception, the complete information with respect to such invention or discovery and the Merit Network shall have the sole power to determine whether and where a patent application shall be filed and to determine the disposition of title to and all rights under any application or patent that may result. Supplier shall, at Merit Network's expense, execute (or cause to be executed) all documents and do (or cause to be done) all things necessary or proper with respect to such patent application, including causing Supplier Personnel to do the same

8.2 Work Product. All materials conceived or prepared by Supplier under this Agreement including but not limited to any and all notes, designs, drawings, memoranda, reports, computer programs and code (including supporting data), and the technical data, if any, furnished by Supplier pursuant to this Agreement or developed by the Supplier in connection with the performance of services ("Work Product") shall be the property of Merit Network. All Work Product shall be delivered to Merit Network upon demand, and Merit Network shall have the right to use Work Product for any purpose that it may deem desirable without the necessity of further compensating Supplier or any other person or persons for their use.

8.3 Prime Contract or Grant. If this Agreement is funded under a Government Prime Contract or Grant, which provides a different disposition for 8.1 and 8.2 above, the latter will govern.

9.0 Insurance.

9.1 Insurance Coverages and Levels. Unless more specific insurance provisions are specified, Supplier shall, at Supplier's expense, obtain and maintain the following coverages:

- Commercial general liability insurance, including contractual products and completed operations insurance (\$1 million per occurrence/\$2 million annual aggregate).
- Professional Liability/Errors and Omissions Insurance with limits not less than \$1 million per occurrence and \$2 million annual aggregate if the activity is deemed professional in nature or performed by someone with a professional designation and is excluded from the Commercial General Liability Insurance.
- Worker's Compensation at statutory limits in accordance with the appropriate State of jurisdiction including Employer's liability (with minimum \$500,000).
- Automobile liability for owned, non-owned and hired vehicles minimum limit (\$1million eachaccident).
- Supplier agrees to have Merit Network added as additional insured with respect to Commercial General Liability Insurance for purposes of contract performance and incidents arising out of Agreement.
- Supplier agrees to provide the Merit Network with thirty (30) days prior written notice of any reduction in limits or cancellation of any of the above insurance.
- If any of the required insurance is on a "claims made" basis and is cancelled during the term of this agreement, Supplier agrees to purchase *tail coverage* or *prior acts coverage* so that such insurance is in effect from the date the Agreement is executed to three (3) years after its termination.
- Supplier shall provide Merit Network with a certificate of the above insurance coverages and amounts. Compliance with the foregoing requirements as to carrying insurance and furnishing evidence of it will not relieve the Supplier of its liabilities and obligations under this Agreement.

10.0 Indemnity. Each party shall defend, indemnify and hold harmless the other party, its board members, officers, employees, agents from and against any costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney fees which may arise out of the other party's acts or omissions under this Agreement for which the indemnifying party would be liable in law or equity. The indemnifying party shall keep the other reasonably apprised of the continuing status of the claim, including any proceedings resulting from it, and shall permit the other party, at its expense, to participate in the defense or settlement of the claim. When a claim is resolved by the indemnifying party's payment of money, it shall have final authority regarding defense and settlement. When a claim resolution requires equitable relief against the non-indemnifying or the indemnifying party has not or will not pay the money required for resolution, the parties shall cooperate regarding defense and settlement.

11.0 Audit. The Supplier is responsible for keeping accurate and reasonable records related to its performance and obligations under this Agreement. In particular, records will be kept documenting any price, cost or budget computations required under the Agreement. The Supplier agrees that Merit Network or its duly authorized representative has the right to audit any directly pertinent books, documents, papers and records related to transactions and/or performance of the terms and conditions of the Agreement. The Supplier shall make available to Merit Network or its agents all such records and documents for audit on the Supplier's premises during regular and reasonable working hours within ten (10) business days of a written request for availability. Supplier agrees to either (a) allow the Merit Network to make and retain copies of those documents useful for documenting the audit activity and results or (b) sequester the original or copies of those documents Merit Network identifies for later access by Merit Network. The Supplier further agrees to disclose within ninety (90) days of receipt any independent auditors' reports, which bear directly on the performance or administration of this Agreement. The right to audit shall include periodic examinations of records throughout the term of the Agreement and for a period of three (3) years after its termination. The right to audit shall also apply to agents and subcontractors hired by the Supplier for the purpose of fulfilling the Agreement. In the event that audits discover substantive findings related to fraud, misrepresentation or non-performance, Merit Network may recoup the costs of the audit work from the Supplier.

12.0 Confidentiality. Supplier shall keep confidential and not disclose to third parties any information provided by Merit Network or by private individuals, organizations or public agencies during the course of this Agreement, including protected customer information regarding customers of Merit Network, as defined under the Gramm-Leach- Bliley Act, unless Supplier has received the prior written consent of Merit Network to make the disclosure or unless required by law or legal process. Only Supplier Personnel with a need to know may have access to or use Merit Network information. This obligation of confidentiality does not extend to information that is or shall become through no fault of Supplier available to the general public.

13.0 Changes, Alterations and Modifications to Services. Merit Network may at any time by a written notice change the drawings, designs, specifications, materials, packaging, and the time and place of delivery and/or completion of the services to be provided under this Agreement. Promptly upon receipt of the details of any change, Supplier shall either advise the Merit Network that the change will not affect its costs, or furnish: (a) a breakdown of estimated cost and changes resulting from the requested change, and (b) a statement of any necessary changes in the time of performance. Supplier's failure to advise Merit Network within ten (10) days of the effect of any change in cost or performance time shall constitute Supplier's consent to conform to the change without change to pricing or without change in other terms and conditions of this Agreement. If the change causes a material increase or decrease in costs, then an equitable adjustment of the pricing to be paid to Supplier shall promptly be negotiated by the Merit Network and Supplier and incorporated as an amendment to this Agreement.

14.0 Removal of Supplier Personnel. If any Supplier Personnel repeatedly fails, in Merit Network's sole discretion, to perform in a competent manner, and Merit Network notifies Supplier in writing that the Supplier Personnel is no longer acceptable to Merit Network, citing the grounds and specific supporting facts, then, after written notification from Merit Network, Supplier shall no longer schedule the Supplier Personnel to provide or support services for Merit Network under this Agreement or any other Agreement with Merit Network. Merit Network, in its sole discretion, may modify this prohibition upon presentation in writing by Supplier of adequate reasons and facts for modifying the prohibition.

15.0 Operational Matters.

15.1 On-Site. On-site Supplier Personnel shall follow and adhere to Merit Network policies and procedures applicable to the provision of the services including, by way of example only and without limitation (a) sign-in procedures, (b) identification badges, (c) executing confidentiality statements, (d) participation in any required training, parking regulations, (f) facilities' utilization.

15.2 Business Expenses. Except as otherwise expressly provided in this Agreement, Supplier shall be responsible for payment of all business expenses incurred while providing the services.

15.3 Supplier Assistance. Supplier agrees to timely cooperate and assist with any applicable performances improvement and quality assurance activities of Merit Network as they may relate to the services.

15.4 Supplier Cooperation. Supplier shall cooperate and make adjustments as necessary in the methods and timing for provision of services under this Agreement so that other Suppliers and Merit Network personnel can perform their independent obligations to Merit Network.

15.5 Limitation on Supplier Personnel. Supplier agrees that unless otherwise approved by Merit Network in writing in advance, no Supplier Personnel shall provide services if any of the following have occurred: (a) any *applicable* registration, certification, licensure of Supplier Personnel, in any state, is or has been threatened with limitation, suspension, revocation or exclusion; (b) any *applicable* registering, certifying, or licensing board reprimands, sanctions or otherwise disciplines Supplier Personnel; or (c) a negligence or wrongdoing claim related to the provisions of the services or similar services has been asserted against Supplier Personnel.

16.0 Duties of the Merit Network. Except as otherwise expressly provided in this Agreement, Merit Network will furnish Supplier, if required by the provision of the services and agreed to by Merit Network, with the space, facilities and accommodations, Merit Network deems reasonably necessary to support Supplier in the provision of the services contemplated by this Agreement.

17.0 Miscellaneous.

17.1 Use of the Merit Network Name and Marks. Merit Network acknowledges Supplier's right to make public statements regarding the existence of the contract, its terms and conditions and an accurate description of the products or services being supplied without the consent of the Merit Network. However, other than as permitted by the previous sentence, Supplier may never make any public statement (for example a press release or any form of advertisement) describing Merit Network's relationship with Supplier or Merit Network's endorsement of Supplier or Supplier's product without the prior written consent of Merit Network. Merit Network may withhold its consent in its absolute discretion. Supplier acknowledges that Merit Network will require fifteen (15) business days to consider any request for consent. Likewise, Supplier may not use any Merit Network Trademark without prior consent obtained through the procedure described above.

17.2 Use of Premises or the Merit Network Property. Supplier shall neither use nor allow Supplier Personnel to use any part of Merit Network premises or property for any purpose other than the delivery, installation, testing, training and/or maintaining of the products as may be required under this Agreement. Without limiting the generality of the statement above, Supplier shall not use Merit Network in any manner that might jeopardize the tax exemptions or casualty insurance of Merit Network.

17.3 Independent Contractor Status of Parties. It is expressly understood that Supplier is an independent contractor and not the agent, partner, or employee of Merit Network. Supplier and Supplier Personnel are not employees of Merit Network and are not entitled to tax withholding, Workers' Compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Supplier shall not have any authority to enter into any contract or agreement to bind Merit Network and shall not represent to anyone that Supplier has such authority.

17.4 Assignment. Supplier may not subcontract, assign or transfer this Agreement or any interest or claim under this Agreement without prior written approval of Merit Network. Notwithstanding any consent by Merit Network to any assignment, Supplier shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirements, in writing, by Merit Network. The Supplier shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

17.5 Notices. Any notice to either party must be in writing, signed by the party giving it, and served to the addresses indicated on the purchase Order (or to such other addressee as may be later designated by written notice) by personal delivery, recognized overnight courier service, or by the United States mail, first-class, certified or registered, postage prepaid, return receipt requested. All such notices shall be effective when received, but in no event later than three (3) days after mailing.

17.6 Entire Agreement, Amendment. This Agreement constitutes the entire understanding between the parties with respect to the subject matter and may not be amended except by an agreement signed by Supplier and an authorized representative of Merit Network.

17.7 Severability. The terms of this Agreement are severable. If any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

17.8 Governing Law, Construction and Venue. This Agreement shall be governed by and construed under the laws of the State of Michigan without regard for principles of choice of law. Any claims, demands, or actions asserted against The Board of Directors of Merit Network shall be brought in the Michigan Court of Claims. Supplier, its successors and assigns, consent to the jurisdiction of the Washtenaw County Circuit Court for the State of Michigan with respect to any claims arising under this Agreement.

17.9 Headings. The paragraph headings in this agreement are inserted for convenience only and shall not be construed to limit or modify the scope of any provision of this Agreement.

17.10 Waiver. No delay or omission by either party to exercise any right or remedy under this agreement shall be construed to be either acquiescence or the waiver of the ability to exercise any right or remedy in the future.

17.11 Survivability. Provisions surviving termination or expiration of this Agreement are those which on their face affect rights and obligations after termination or expiration and also include provisions concerning indemnification, confidentiality, warranty and choice of law and venue.

17.12 Execution. This Agreement may be executed in duplicate, each of which when executed and delivered shall be an original. The parties acknowledge and agree that this Agreement has been mutually discussed, negotiated, and drafted by the parties.

17.13 No Third Party Rights. Nothing in this Agreement shall be construed as creating or giving rise to any rights in third parties or persons other than the named parties to this Agreement.

17.14 Force Majeure. Neither Supplier nor Merit Network shall be liable for failure to perform its respective obligations under the Agreement when failure is caused by fire, explosion, water, act of God, civil disorder or disturbances, strikes, vandalism, war, riot, sabotage, weather and energy related closings, or like causes beyond the reasonable control of the party ("Force Majeure Event"). In the event that either party ceases to perform its obligations under this Agreement due to the occurrence of a Force Majeure Event, the party shall: (a) as soon as practicable notify the other party in writing of the Force Majeure Event and its expected duration; (b) take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible, including, as applicable, abiding by the disaster plan in place for Merit Network. In the event that any Force Majeure Event delays a party's performance for more than thirty (30) calendar days following notice by the delaying party pursuant to this Agreement, the other party may terminate this Agreement immediately upon written notice.

17.15 Tax Exempt Status. Supplier acknowledges that Merit Network is a tax-exempt institution, granted such status by authorized taxing units of State of Michigan, and is exempt from Federal Excise Tax and Michigan General Sales Tax (see Michigan Public Act 167 of 1933, Section 4 as amended) as a 501c(3)..

17.16 Dispute Resolution. Supplier and Merit Network will attempt to settle any claim or controversy arising from this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary.

17.17 Freedom of Information Act. Nothing in this Agreement shall in any way limit the ability of Merit Network to comply with any laws or legal process concerning disclosures by public bodies. The parties acknowledge that any responses, materials, correspondence or documents provided to Merit Network are subject to the State of Michigan Freedom of Information Act ("Act") and may be released to third parties in compliance with that Act or any other law will not constitute a breach or threatened breach of this Agreement.

17.18 Supplier Damage to the Merit Network Property. Without regard to any other section of the Agreement, Supplier shall be responsible for the costs to return to "as was" condition from any damage caused to the building, grounds, or other equipment and furnishings caused in whole or part by Supplier Personnel while performing activities arising under this Agreement. Supplier shall immediately report in writing the occurrence of any damage to Merit Network.

17.19 Supplier Clean-up. Supplier will remove all packing materials, rubbish and dirt from Merit Network premises associated with Supplier's provision of services under this Agreement.

This Purchase Order and its Attachments constitute the contract between you and Merit and it specifically incorporates the terms and conditions set forth in Attachment C (BASIC TERMS AND CONDITIONS FOR SERVICES PROVIDED MERIT NETWORK, INC.).

To have a binding contract with Merit, you must agree to the above terms, sign below and return a copy to Merit. No contract will exist and no payments will be made until a signed copy is received by Merit.

By: _____

Its: _____