

MA 18P 18062700000000000157
MODIFICATION

State of Maine



Master Agreement

Effective Date: 07/01/18

Expiration Date: 06/30/22

Master Agreement Description: Condoms - MMCAP MMS18009

Buyer Information

| | | | |
|-----------------|--------------|------|---------------------------|
| Justin Franzose | 207-624-7337 | ext. | justin.franzose@maine.gov |
|-----------------|--------------|------|---------------------------|

Issuer Information

| | | | |
|---------------|--------------|------|-------------------------|
| Sheila Krouse | 207-287-3747 | ext. | SHEILA.KROUSE@maine.gov |
|---------------|--------------|------|-------------------------|

Requestor Information

| | | | |
|---------------|--------------|------|-------------------------|
| Sheila Krouse | 207-287-3747 | ext. | SHEILA.KROUSE@maine.gov |
|---------------|--------------|------|-------------------------|

Agreement Reporting Categories

Reason For Modification: Extension until 6/30/2022.

Authorized Departments

ALL

Vendor Information

Vendor Line #: 1

Vendor ID

VS0000021804

Vendor Name

Lifestyles US Opco, Inc.

Alias/DBA

SXWELL USA LLC

Vendor Address Information

111 Wood Ave S
111 Wood Ave S
Iselin, NJ 08830-2700
US

Vendor Contact Information

SUSAN SIMMONS
7323455334 ext.
SUSAN.SIMMONS@LIFESTYLES.COM

Commodity Information

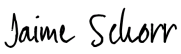
Vendor Line #: 1
Vendor Name: Lifestyles US Opco, Inc.
Commodity Line #: 1
Commodity Code: 26932
Commodity Description: Condoms - MMCAP MMS18009
Commodity Specifications: As per the attached specifications made part of this MA
Commodity Extended Description: Subject to all MMCAP terms & conditions

| | | |
|------------------------|----------------------------|--------------------------|
| Quantity | UOM | Unit Price |
| 0.00000 | | 0.000000 |
| Delivery Days | Free On Board | |
| | FOB Dest, Freight Prepaid | |
| Contract Amount | Service Start Date | Service End Date |
| 0.00 | | |
| Catalog Name | Discount | |
| Sxwelll Healthcare | 0.0000 % | |
| | Discount Start Date | Discount End Date |
| | 07/01/18 | 06/30/22 |

Please see authorized signatures displayed on the next page

Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.


State of Maine - Department of Administrative and Financial Services

DocuSigned by:
 6/14/2021
6D6437754DD0459...

Signature Date

Jaime C. Schorr, Chief Procurement Officer

Vendor

DocuSigned by:
 7/12/2021
6122E50029E94E1

Signature Date

Elizabeth Kramer SPECIALIST, SALES OPS & ANALYTICS

Print Representative Name and Title

State of Minnesota

Department of Administration

Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)

This contract is between the State of Minnesota, acting through its Commissioner of Administration, on behalf of Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and **Lifestyles US Opco dba SXWELL USA, LLC**, 111 Wood Ave South, Suite 210, Iselin, NJ 08830 (Vendor).

Under Minnesota Statutes Section 16C.03, the Commissioner of Administration on behalf of MMCAP is empowered to engage such assistance as deemed necessary.

MMCAP is a group purchasing organization as defined in 42 U.S.C. § 1320a-7b(b)(3)(c) and maintains that it is structured to comply with the requirements of the Safe Harbor regulations regarding payments to group purchasing organizations set forth in 42 C.F.R. § 1001.952(j). MMCAP consists of government-run facilities and contracts for pharmaceuticals and health care products and services for members' use. Participation in MMCAP is limited to government authorized facilities such as state agencies, counties, cities, townships, and school districts.

The Vendor wishes to contract with MMCAP to provide **Condoms and Related Products**.

1. Term of Contract

1.1. Effective date: July 1, 2018, or the date MMCAP obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

1.2. Expiration date: June 30, 2020 or as cancelled pursuant to Section 35. This Contract may be extended up to three (3) additional one (1) year periods, upon mutual agreement of the parties.

1.3. Survival of Terms. The following clauses survive the expiration or cancellation of this Contract: 20. Indemnification; 21. State Audits; 22. Government Data Practices and Intellectual Property; 23. Publicity and Endorsement; 24. Governing Law, Jurisdiction, and Venue; and 29. Data Disclosure

2. Contracted Products. The Vendor will supply the Products directly to MMCAP Members at the prices listed in Attachment A: Condoms and Related Products and Pricing, which is attached and incorporated into this Contract.

3. Product Availability

3.1. It is the responsibility of the Vendor to maintain sufficient inventory levels for all Products to meet the reasonably foreseeable needs of the MMCAP Members, based upon ordering history.

3.2. Vendor must provide written notice of all Product backorders to MMCAP within twenty four (24) hours of the knowledge of any backorder situation. Notices must include the reason(s) for and the expected duration of the backorder situation. Backorder notices must be sent to:

MMCAP.HPSCContracts@state.mn.us.

3.3. Vendor must notify MMCAP immediately of any issues that would likely affect Product availability. Notices must be sent to: MMCAP.HPSCContracts@state.mn.us

3.4. If the Vendor assigns, discontinues, or deletes a Product during the term of this Contract, Vendor must provide written notice to MMCAP at least sixty (60) days prior to the assignment, discontinuance, or deletion of Products as set forth in section 19. Assignment, Amendments, Waiver

and Contract Complete. If inventory is depleted prior to the end of the sixty (60) day period, Vendor agrees to pay Failure to Supply claims as set forth in Section 12.

4. FDA Approved. Vendor acknowledges that each Product has, if required by law, a United States Food and Drug Administration (FDA) 510(K) on file and accepts the liability with which such application confers. The Vendor guarantees to furnish no Product under this Contract that is adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the FDA, or as required by each member state's applicable laws, rules, or regulations.

5. Shipping and Delivery. Shipping terms are FOB Destinations Freight Prepaid and Allowed. Expedited delivery such as overnight, rush, same day or second (2nd) day delivery shall be paid by the ordering customer.

6. Returned Goods/Credits. Vendor will supply a copy of its returned goods/credit policy to MMCAP upon request.

7. Value-Added Programs. MMCAP Members must be offered any programs normally offered to the Vendor's non-MMCAP customer base (e.g., continuing education courses, marketing information, etc.) at the same or lower cost as that offered to its non-MMCAP customer base.

8. Own Use. All Products acquired by MMCAP Members under this Contract are purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise.

9. Product Dating. All Products supplied to MMCAP Members must have an expiration date of at least four (4) years from the date of manufacture and have a least a six (6) month shelf life from the date of acceptance of the Product by the MMCAP Member. The expiration date must be clearly marked on all Products provided. For Products that have an expiration dates less than six (6) months, MMCAP expects Vendor to provide such Products to MMCAP Members, as long as members are notified at the time of Products ordering, and agree to it. However, all Products supplied must still be useable on the date received by the MMCAP Member.

10. Direct Marketing, Advertising, and Offers with MMCAP Members. Any direct advertising, marketing, or direct offers referencing MMCAP Members must be approved by MMCAP. Materials should be sent to: MMCAP.HPSContracts@state.mn.us. Violation of this Section may be cause for immediate cancellation of this Contract and/or MMCAP may reject any proposal submitted by the Vendor in any subsequent solicitations for Condom Products

11. Pricing. All Products listed in Attachment A, will be considered to be fixed during the term of this Contract including any of the subsequent three (3) - one (1) year extension terms granted by MMCAP. Prices may only be changed through amendment to the Contract once per term of the Contract including any of the three (3)-one (1) year extension periods granted by MMCAP. In the event of any price change, Vendor will advise MMCAP in writing as set forth in Section 19.

12. Failure to Supply Contracted Products. If Vendor fails to maintain sufficient inventory to meet the anticipated needs of MMCAP Members for any Products listed on Attachment A, the ordering MMCAP Member may purchase same or equivalent Product from an MMCAP Contracted Vendor, or if the Product is unavailable, the MMCAP Member may purchase an alternate equivalent product on the open market (non-contracted vendor) for the period in which the Vendor is unable to provide the Products. The

Vendor will be liable for any excess cost over the MMCAP contracted price and the alternate price of the product supplied by the non-contracted vendor.

12.1. Vendor must notify MMCAP in writing within twenty four (24) hours of Vendor's knowledge of its inability to supply any Products. Notices must be sent to:
MMCAP.HPSContracts@state.mn.us.

12.2. MMCAP Members will submit the following information to the Vendor for each Product that reimbursement is expected for:

- MMCAP Participating Facility name, address, city, state, zip
- MMCAP Participating Facility point of contact for reimbursement (including telephone number and e-mail address)
- MMCAP contract number
- Product description
- Alternate product name
- Alternate manufacturer
- Alternate purchase price
- Alternate quantity purchased
- Alternate date purchased
- Amount due
- Reason (e.g., brief description, such as Manufacturer Backorder)
- A copy of the invoice showing the purchase of the alternative product

12.3. Vendor must pay claims directly to the MMCAP Member within thirty (30) days of receipt of a claim.

12.4. If Vendor can prove that its inability to supply any Product was not due to its acts or omissions, then Vendor will not be liable for any such failure to supply claim.

12.5. Vendor will be responsible for payment of Failure to Supply claims during the term of the Contract unless the Vendor has provided MMCAP with at least sixty (60) calendar days' advanced written notice of the intent to remove the Product(s) from production and discontinue distribution in the U.S. market.

13. MMCAP Member Purchase Orders. MMCAP Members may use their own forms for Purchase Orders. To the extent that the terms of any form conflict with the terms of this Contract, the terms of this Contract supersede. Each MMCAP Member will be responsible for payment of Products provided by Vendor; and the MMCAP Group Purchasing Organization will have no liability for any unpaid invoice of any MMCAP Facility. Vendor agrees to invoice the MMCAP Member for all Products shipped or services provided. Vendor will accept Electronic Funds Transfer (EFT) for payment. At the time of new account set up, the MMCAP Member will initiate this process with its bank.

13.1. Funds available and authorized/non-appropriation. By submitting a Purchase Order the MMCAP Member represents it has sufficient funds currently available and authorized for expenditure to finance the costs of the Purchase Order.

13.2. Termination of Individual Purchase Orders. MMCAP Members may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Vendor, or at such later date as the MMCAP Member may establish in such notice, upon the occurrence of any of the following events:

- The MMCAP Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Products to be purchased under the Purchase Order;

- Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of Products under the Purchase Order is prohibited or the MMCAP Member is prohibited from paying for such Products from the planned funding source; or
- Vendor commits any material breach of this Contract or a Purchase Order. Upon receipt of written notice of termination, Vendor will stop performance under the Purchase Order as directed by the MMCAP Member.
- Termination of a standing Purchase Order does not extinguish or prejudice the MMCAP Member's right to enforce such Purchase Order with respect to Vendor's breach of any warranty or any defect in or default of Vendor's performance under such Purchase Order that has not been cured, including any right of the MMCAP Member to indemnification by Vendor or enforcement of a warranty. If a standing Purchase Order is terminated, the MMCAP Member must pay Vendor in accordance with the terms of this Contract for goods delivered and accepted by the MMCAP Member.

13.3. Jurisdiction and Venue of Purchase Orders. Upon completion of the Dispute Resolution process outlined in this Contract, and solely with the prior written consent of MMCAP and the State of Minnesota Attorney General's Office, the MMCAP Member may bring a claim, action, suit or proceeding against Vendor. The MMCAP Member's request to MMCAP to bring the claim, action, suit, or proceeding must state the initiating party's desired jurisdiction, venue and governing law. Upon completion of the Dispute Resolution process outlined in this Contract, the Vendor may bring a claim, action, suit or proceeding against MMCAP Member, in Vendor's sole discretion.

14. Invoices. Each MMCAP Member will be responsible for payment of Products provided by Vendor and the MMCAP Group Purchasing Organization will have no liability for any unpaid invoice of any MMCAP Member. Vendor agrees to invoice the MMCAP Member for all Products shipped.

15. Customer Service.

15.1. Primary Account Representative. Vendor will assign a Primary Account Representative to MMCAP for this Contract and must provide a minimum of forty eight (48) hours advanced notice to MMCAP if that person is reassigned. The Primary Account Representative will be responsible for:

- Proper maintenance and management of the MMCAP Contract, including timely execution of all amendments;
- Timely response to all MMCAP inquiries;
- Performance of the business review.

In the event that the Primary Account Representative is unresponsive and does not meet MMCAP's needs, the Vendor will assign another Primary Account Representative upon MMCAP's request.

15.2. Business Reviews. Vendor will perform at least one business review with MMCAP staff per contract year. The review will be at a time and location that is mutually agreeable to Vendor and MMCAP and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

15.3. Dispute Resolution. Vendor and MMCAP (the "Parties") will handle dispute resolution for unresolved Contract issues arising from this Contract using the following procedure:

15.3.1. Notification. The Parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. And if necessary, MMCAP and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both Parties.

15.3.2. Escalation. If Parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP or Vendor may escalate the resolution of the issue to a higher level of management. A meeting will be scheduled with MMCAP and the Vendor's MMCAP Primary

Account Representative to review the briefing document and develop a proposed resolution and plan of action. The Vendor will have 30 calendar days to cure the issue.

15.3.3. Performance while Dispute is pending. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP and/or MMCAP Members as a result of such failure to proceed will be borne by the Vendor.

16. MMCAP Members

16.1. Membership Listing. Vendor must allow new MMCAP Members joining MMCAP to be added to the MMCAP Membership List (password protected and published at www.mmcap.org) and to access Contract prices throughout the term of this Contract. As new MMCAP Members are added to MMCAP, Vendor will be given 7 days from the date of notification to implement Contract pricing. MMCAP will provide Vendor with monthly email notices announcing that a new MMCAP Membership List has been posted online.

16.2. Add/Delete. MMCAP reserves the right to add and delete MMCAP Members during the term of this Contract.

16.3. Class of Trade Restrictions. If Vendor maintains class of trade restrictions, eligibility criteria must be listed in this Section 16. If Vendor maintains class of trade restrictions which are not present or expressly defined in this Contract, MMCAP reserves the right to cancel this Contract and to reject any proposal submitted by Vendor in any subsequent solicitations.

16.4. Eligibility Lists. If Vendor maintains class of trade restrictions, monthly electronic eligibility lists must be sent to MMCAP at the following email address:

MMCAP.HPSContracts@state.mn.us

16.5. Certification. Certification, eligibility, or GPO declaration forms maintained by Vendor must be attached and incorporated into this Contract, if applicable.

16.6. Removing Members from Contract Pricing. Vendor must notify MMCAP at least thirty (30) days prior to removing any MMCAP Members from Contract pricing. Notices must be sent to: MMCAP.HPSContracts@state.mn.us. If MMCAP does not receive notification that an MMCAP Member has been removed from Contract pricing, Vendor will honor pricing until thirty (30) days after such notice is provided to MMCAP.

16.7. Member-required Participation Agreement. In order to access this Contract some MMCAP Members require jurisdiction-specific additional paperwork or contract language. Vendor must not sign any MMCAP Member documents without prior MMCAP review and approval. If needed, MMCAP will issue a Member-requested Participation Agreement (MPA) that will be amended into to this Contract. No other mechanism of modifying or "attaching to" MMCAP contracts is authorized. The MPA, which will only apply to the requesting MMCAP Member and must be signed in the following order: MMCAP Member, Vendor, then MMCAP. Vendor is not required to agree to any additional terms; however, by not agreeing to the MPA, Vendor may be precluded from doing business with that MMCAP Member. In the event a MMCAP Member requires a fee be added to the Contract price (e.g., member levied procurement fee or system use fee), that fee must be added on top of the MMCAP-contracted pricing. Vendor may not absorb the fee. Vendor must not pay a MMCAP Member levied fee without first collecting the fee through increased product costs. The fees will be set aside and paid to the MMCAP Member as would be detailed in an MPA.

17. Administrative Fee. In consideration for the reports and services provided by MMCAP, Vendor will pay an administrative fee on all Contract purchases (minus any credits) of Products made directly with Vendor by the MMCAP Member. Vendor will submit a check payable to "State of Minnesota, MMCAP Program" for an amount equal to **three (3) percent** of MMCAP Members' purchases for all Products. The administrative fee must be paid as soon as is reasonable after the end of each month, but no later than thirty (30) calendar days after the end of the month. Payments must be sent to:

Financial Management and Reporting
MMCAP, 50 Sherburne Avenue, Suite 309
St. Paul, MN 55155.

Vendor must submit a monthly Administrative Fee Data Report as set forth in Section 39. Reporting Requirements. All Administrative Fee Data Reports must be sent to: Mn.MMCAP@state.mn.us at the end of each month, but no later than thirty (30) days after the end of the month. Failure to comply with this provision may constitute breach of this Contract. MMCAP reserves the right to collect interest on payments thirty (30) days past due at a rate consistent with Minn. Stat. § 16D.13.

In the event the Vendor is delinquent in any undisputed administrative fees, MMCAP reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.

18. Authorized Representative. MMCAP's Authorized Representative is MMCAP's Managing Director or his/her successor,
Minnesota Multistate Contracting Alliance for Pharmacy
50 Sherburne Avenue Suite 112
St. Paul, MN 55155

The Vendor's Authorized Representative is **David Deem, Sales Director North America**. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must immediately notify MMCAP in writing via e-mail addressed to Elizabeth Suszynski, MMCAP's Healthcare Products and Services Coordinator, at: elizabeth.suszynski@state.mn.us or their designee, who will assume that responsibility for Vendor.

19. Assignment, Amendments, Waiver, and Contract Complete.

19.1. Assignment. Neither Vendor nor MMCAP may assign or transfer any rights or obligations under this Contract without the prior written consent of the parties and a fully executed Assignment Agreement. If Vendor assigns a Product during the term of this Contract, Vendor must provide written notice to MMCAP at least thirty (30) days prior to the assignment.

19.2. Amendments. Any amendment to this Contract must be in writing and will not be effective until it has been executed by both parties. All Contract changes to Attachment A are limited to one amendment per the term of the Contract, including any one year extension to the Contract, unless otherwise agreed to in writing by MMCAP. All amendments must be drafted and processed by MMCAP. Vendor should request changes to the Contract in writing to the MMCAP Contract Manager at least sixty (60) days prior to the Effective Date of the proposed amendment and include at least the information listed below.

- MMCAP Contract Number
- Action (e.g., addition, deletion, price change)
- Product Description
- Packaging (unit of measure)

- Contract Price
- Amendment Effective Date

19.3. Waiver. If MMCAP fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

19.4. Contract Complete. This Contract contains all negotiations and agreements between MMCAP and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

20. Indemnification. Vendor must indemnify, save, and hold MMCAP, MMCAP Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; or injury or death to person(s) or property, alleged to have been caused by some defect in Products under this Contract, when the Product has been supplied by and dispensed strictly in accordance with federal, state, and local regulations and the applicable provisions of the package insert. This clause will not be construed to bar any legal remedies the Vendor may have for MMCAP's failure to fulfill its obligations under this Contract. Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP cannot indemnify the Vendor.

21. State Audits. Minnesota Statutes Section 16C.05, subdivision 5, requires that, "books, records, documents, and accounting procedures and practices of the vendor or other party, that are relevant to the contract or transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six (6) years" from the end of this Contract. The State of Minnesota reserves the right to authorize delegate(s) to audit this Contract and transactions.

22. Government Data Practices and Intellectual Property

22.1. Government Data Practices. Vendor and MMCAP must comply with the Minnesota Data Practices Act, Minn. Stat. ch.13 as it applies to all data provided by MMCAP under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Vendor under this Contract. The civil remedies of Minn. Stat. Section 13.08 apply to the release of the data governed by the Minnesota Government Data Practices Act, Ch. 13, by either the Vendor or MMCAP.

If Vendor receives a request to release the data referred to in this article, Vendor must immediately notify MMCAP, and consult with MMCAP as to how the Vendor should respond to the request. The Vendor's response to the request will comply with applicable law.

Vendor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Contract. In the event Vendor subcontracts any or all of the work to be performed under the Contract, Vendor shall retain responsibility under the terms of this paragraph for such work.

22.2. Intellectual Property. Vendor warrants that any materials or products provided or produced by Vendor or utilized in the performance of this Contract will not infringe or violate any valid U.S. patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against MMCAP, MMCAP will promptly notify Vendor.

If such a claim of infringement has occurred, or in Vendor's opinion is likely to occur, the Vendor must either procure for MMCAP the right to continue using the material or product or replace or modify materials or products. If an option satisfactory to MMCAP is not reasonably available,

MMCAP will return the materials or products to the Vendor, upon written request of the Vendor, and at Vendor's expense.

23. Publicity and Endorsement.

23.1. Publicity. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

23.2. Endorsement. The Vendor must not claim that MMCAP endorses its Products.

24. Governing Law, Jurisdiction, and Venue. Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota. Except to the extent that the provisions of this Contract are clearly inconsistent therewith, this Contract will be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. To the extent this Contract entails delivery or performance of services, such services will be deemed "goods" within the meaning of the UCC except when to do so is unreasonable.

25. Antitrust. Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to Products provided in connection with this Contract resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

26. Force Majeure. Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

27. Severability. If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable or void, then both MMCAP and Vendor will be relieved of all obligations arising under such provisions; if the remainder of this Contract is capable of performance it will not be affected by such declaration or finding and must be fully performed.

28. Default and Remedies. Either of the following constitutes cause to declare the Contract or any order under this Contract in default:

- Nonperformance of contractual requirements, or
- A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity; or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

29. Data Disclosure. In the event MMCAP obtains Vendor's Federal Tax Identification Number, Vendor consents to disclosure of its federal employer tax identification number to federal and State of Minnesota agencies and personnel involved in the payment of State of Minnesota, and other MMCAP Members obligations. These identification numbers may be used in the enforcement of federal, State of Minnesota laws that could result in action requiring Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

30. Insurance Requirements

30.1. Vendor must maintain the following insurance (or a comparable program of self-insurance) in force and effect throughout the term of the Contract.

30.2. Vendor is required to maintain and furnish satisfactory evidence of the following insurance (or of their program of self-insurance):

Commercial General Liability Insurance.

Vendor will maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Contract.

Insurance minimum limits are as follows:

- \$2,000,000 – per occurrence
- \$2,000,000 – annual aggregate
- \$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages must be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- MMCAP named as an Additional Insured

Network Security and Privacy Liability Insurance, Including Ransomware (or equivalent).

Vendor will maintain insurance to cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service.

Insurance minimum limits are as follows:

- \$1,000,000 – per occurrence
- \$1,000,000 – annual aggregate

Workers' Compensation Insurance. Vendor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract. Vendor shall not commence work under the Contract until they have obtained all the insurance specified in the solicitation document. Vendor shall maintain such insurance in force and effect throughout the term of the Contract.

Insurance minimum limits are as follows:

- \$500,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$500,000 – Bodily Injury by Accident

Commercial Automobile Liability Insurance. Auto Liability insurance is not necessary unless the Vendor, Vendor's employees, or subcontractors will be driving on state property or on the property of MMCAP Members or will be using, owned, hired, or non-owned vehicles to conduct business on behalf of MMCAP.

Vendor will maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this Contract, and in case any work is subcontracted the Vendor will require the subcontractor to maintain Commercial Automobile Liability insurance.

Insurance minimum limits are as follows:

- \$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

- Owned, Hired, and Non-owned Automobile

31. Additional Insurance Conditions:

- Vendor's policy(ices) must be primary insurance to any other valid and collectible insurance available to MMCAP with respect to any claim arising out of Vendor's performance under this Contract;
- If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor will notify MMCAP within five business days with a copy of the cancellation notice, unless Vendor's policy(ices) contain a provision that coverage afforded under the policy(ices) will not be cancelled without at least thirty (30) days' advance written notice to MMCAP;
- Vendor is responsible for payment of Contract related insurance premiums and deductibles;
- If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- Vendor's policy(ices) will include legal defense fees in addition to its liability policy limits;
- Vendor will obtain insurance policy(ices) from insurance company(ices) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Contract.

31.1. MMCAP reserves the right to immediately terminate the Contract if Vendor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP, and copies of policies must be submitted to MMCAP's authorized representative upon written request.

32. Laws and Regulations. Any and all Products offered and furnished shall comply fully with all state and federal laws and regulations, including Minnesota Statutes Section 181.59 and Minnesota Statutes Chapter 363A prohibiting discrimination and business registration requirements of the Minnesota Secretary of State's Office.

33. Certifications.

33.1 cGMP. If applicable to the Products offered in this Contract, Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (cGMP) (as codified in 21 C.F.R§ 201-211) and the current United States Food, Drug and Cosmetic Act.

33.2. Debarment and Suspension Certification. Vendor certifies that neither it nor its principals is presently debarred or suspended by the State of Minnesota, the United States, or any MMCAP Member Facility, and has not been convicted of a criminal offense related to the subject of this Contract. Vendor further warrants that it will provide immediate written notice to the MMCAP Authorized Representative if this certification changes at any time.

34. Human Rights/Affirmative Action Requirements. For contracts in excess of \$100,000 and if Vendor has more than forty (40) full-time employees in Minnesota or its principal place of business. The State of Minnesota intends to carry out its responsibility for requiring affirmative action by its vendors.

34.1. Covered contracts and Vendors. If the Contract exceeds \$100,000 and Vendor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then Vendor must comply with the requirements of Minnesota Statutes Section 363A.36 and Minnesota Rules 5000.3400-5000.3600. If Vendor is covered by Minnesota Statutes Section 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, it must certify that it is in compliance with federal affirmative action requirements.

34.2. Minnesota Statutes Section 363A.36. Minnesota Statutes Section 363A.36 requires Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

34.3. Minnesota Rules 5000.3400-5000.3600

- **General. Minnesota Rules 5000.3400-5000.3600 implements Minnesota Statutes Section 363A.36**

These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rules 5000.3400-5000.3600 including, but not limited to, Minnesota Rules 5000.3420-5000.3500 and 5000.3552-5000.3559.

- **Disabled Workers.** Vendor must comply with the following affirmative action requirements for disabled workers.
 - Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - In the event of Vendor's noncompliance with the requirements of this article, actions for noncompliance may be taken in accordance with Minnesota Statutes Section

363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

- Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that Vendor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- **Consequences.** The consequences for Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State of Minnesota.
- **Certification.** Vendor hereby certifies that it is in compliance with the requirements of Minnesota Statute Section 363A.36 and Minnesota Rules 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

35. Cancellation. MMCAP or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' Vendor written notice to the other party. In the event of such a cancellation, the Vendor will be entitled to payment, determined in a pro rata basis, for work or services satisfactorily performed or Products supplied through the Contract cancellation date.

36. E-Verify Certification (In accordance with Minn. Stat. §16C.075). If the response to this solicitation could be in excess of \$50,000, the resulting Contract with the State of Minnesota will require the vendor's compliance with the federal E-Verify program. Vendor certifies that it and all its subsidiaries and subcontractors have implemented the federal E-Verify program for all newly hired employees in the United States who will perform work under this Contract. All subsidiary and subcontractor certifications must be kept on file with Vendor and made available to MMCAP upon request.

37. Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053).

The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of Vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

38. Shareback Credits. In the event MMCAP determines that the Contract is able to provide shareback credits for eligible MMCAP Members, MMCAP will issue Vendor a ninety (90) day written notice prior to the shareback credit disbursement date. The provisions listed below will apply to the shareback credit process.

At no additional cost to the MMCAP Office, Vendor will manage the MMCAP annual shareback credit according to the schedule below:

- The MMCAP Office will provide Vendor with (i) an accurate list of MMCAP Participating Facilities receiving a credit, (ii) the Vendor account number, facility name, facility address, facility city, facility state, and the credit amount for each facility, and (iii) a check for the total amount of all credits to be provided.
- Vendor must apply the credit to all listed MMCAP Participating Facilities within fifteen (15) business days of the receipt of the funds and an accurate listing of the MMCAP Participating Facilities entitled to receive a credit.
- Within thirty (30) business days of the receipt of the funds, Vendor must provide to the MMCAP Office an Excel Spreadsheet detailing the credit memo information. This Excel listing must include the following fields: distribution center, account number, facility name, facility address, facility city, facility state, DEA, HIN, date of credit memo, credit memo number, and credit memo amount.
- Within sixty (60) business days of the receipt of the funds, Vendor will refund to the MMCAP Office any remaining dollars for which it was unable to issue credit; this may be for any MMCAP Participating Facilities that were determined to no longer be valid members or that were not able to be located for any variety of reasons. Vendor will work with the MMCAP Office to identify all MMCAP Participating Facilities to the best of its ability in an effort to issue all necessary credits before refunding dollars back to the MMCAP Office. Upon initiating the refund to the MMCAP Office, Vendor will provide a copy of the original Shareback Credit spreadsheet detailing the credit information (received from the MMCAP Office), the reason for non-application of funds, and the dollar amount of the funds being returned to the MMCAP Office.

39. Reporting Requirements. All reports indicated in this section must be available in an electronic Microsoft Excel file format and contain the required information fields set forth below. Vendor will work with the MMCAP Office during the transition and implementation period of this Contract to ensure the Vendor submits the required reports whose format and content are mutually agreeable to both parties. If requested by an MMCAP Member, MMCAP Member State or the MMCAP Office, the requested report must be customized to report data specific to the requesting entity.

39.1. Monthly Sales Data Usage Reports for the MMCAP Office. Vendor will supply to the MMCAP Office accurate monthly sales data on or before the 10th day of the subsequent calendar month (e.g., June's data will be due on July 10th). The report must include Product dollar spend amount sorted in descending order and grouped by Product category. Also, the report MUST include the information set forth below for every transaction between the Vendor and the MMCAP Member:

- The Table 1 details the required fields for the sales data report.
- The Table 2 details the required record layout in fixed record format.

Administrative Fee Data Report. The Vendor must submit a monthly Administrative Fee Data Report with each Administrative Fee payment that includes sales made direct from Vendor to the MMCAP Member.

The monthly Administrative Fee Data Report must contain the fields included as set forth below those fields apply to this Contract. A detailed data file in Microsoft Excel format will be provided upon request. All required Administrative Fee Data Reports must be sent to: MN.MMCAP@state.mn.us on or before the 10th day of the second subsequent month (e.g., June's data will be due July 10th). Failure to comply with this provision may constitute breach of this Contract. In the event the Vendor is delinquent in any undisputed Administrative Fees, MMCAP reserves the right to terminate this Contract as set forth in section 35. Cancellation and to reject any proposal submitted by the Vendor in any subsequent solicitations for Condoms and Related Products.

Table 1: Required Data Field for Sales Data Report

| Excel Column | Required Data Field Full Name for Sales Data Report |
|---------------------|---|
| VA | MMCAP-assigned facility ID |
| B | MMCAP Facility Name |
| C | Vendor Distribution Center Code |
| D | Vendor-assigned Account number for the MMCAP Facility (this should be the ship-to account number). |
| E | Invoice Number |
| F | Invoice Line Number |
| G | Purchase Order Number |
| H | Invoice date (mmddyyyy) |
| I | Buyer name or equivalent of buyer ID for person submitting the invoices (if available) |
| J | Vendor's (distributor) SKU item number |
| K | NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc. (Required for pharmaceutical products) |
| L | Label Name/Product Description |
| M | Unit Dose (Required for pharmaceutical products) |
| N | Pack Size |
| O | Unit |
| P | Case Size |
| Q | Dose (Required for pharmaceutical products) |
| R | Strength (Required for pharmaceutical products) |
| S | Route (Required for pharmaceutical products) |
| T | Unit Price (99999.9999) |
| U | Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999) |

MMCAP Contract MMS18009

| | |
|----|--|
| V | Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999) |
| W | Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999) |
| X | Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=core item, 2=non-core, 3=not on contract |
| Y | Bill to Address 1 |
| Z | Bill to City |
| AA | Bill to State (2 alpha postal code) |
| AB | Bill to Zip (standard 5-4 format, no dash necessary) |
| AC | Ship to Address 1 |
| AD | Ship to City |
| AE | Ship to State (2 alpha postal code) |
| AF | Ship to Zip (standard 5-4 format, no dash necessary) |
| AG | Service Fee (9999.9999) |
| AH | MMCAP Contract Number (MMSxxxxx) |
| AI | Admin fee (9999.9999) |
| AJ | Credit Indicator (C for credit) |
| AK | MMCAP Assigned Wholesaler Code (<i>Codes will be assigned to PPV's during implementation period of the contract</i>) |
| AL | Manufacture Name (MFG Name) |
| AM | Class of Trade |
| AN | 340b Purchase |
| AO | Category |
| AP | Manufacturer Part Number |
| AQ | Catalog Price |
| AR | UNSPSC Code (XXXXXXXXXX) |
| AS | UNSPSC Description |

Table 2: Monthly Sales Data Usage Report-Fixed Length Fields

| Monthly Sales Data Usage Report - Fixed Length Fields | | | | | | | |
|---|--------------------|---------------|---|------|-------|--------------|------------|
| Required Data Field Full Name | Field Name | Data Type | Format (note decimals are to be included) | Size | Nulls | Begin Column | End Column |
| MMCAP-assigned facility ID | MMCAP_Id | Alpha Numeric | | 7 | 1 | 1 | 7 |
| MMCAP Facility Name | MMCAP_Name | Alpha Numeric | | 30 | 1 | 8 | 37 |
| Vendor Distribution Center Code | DistributionCenter | Alpha Numeric | | 3 | 1 | 38 | 40 |
| Vendor-assigned Account number for the MMCAP Facility | VendAccountNo | Alpha Numeric | | 10 | 1 | 41 | 50 |
| Invoice Number | InvoiceNumber | Alpha Numeric | | 15 | 1 | 51 | 65 |
| Invoice Line Number | InvoiceLineNo | Alpha Numeric | | 4 | 1 | 66 | 69 |
| Purchase Order Number | poNumber | Alpha Numeric | | 15 | 1 | 70 | 84 |
| Invoice date (mmddccyy) | InvoiceDate | numeric | mmddccyy | 8 | 1 | 85 | 92 |
| Buyer name or equivalent of buyer ID for person submitting the invoices | BuyerName | Alpha Numeric | | 20 | 1 | 93 | 112 |
| Vendor's (distributor) SKU item number | SKU | Alpha Numeric | | 13 | 1 | 113 | 125 |
| NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc. | NDC | Alpha Numeric | 999999999 | 11 | 1 | 126 | 136 |
| Label Name | LabelName | Alpha Numeric | | 40 | 1 | 137 | 176 |
| Unit Dose | UD | numeric | 9 | 1 | 1 | 177 | 177 |
| Pack Size | Pack_Size | numeric | 99999.999 | 9 | 1 | 178 | 186 |
| Unit | Unit | Alpha Numeric | | 2 | 1 | 187 | 188 |
| Case Size | Case_Size | numeric | 9999 | 4 | 1 | 189 | 192 |
| Dose | D | Alpha Numeric | | 10 | 1 | 193 | 202 |
| Strength | STR | Alpha Numeric | | 10 | 1 | 203 | 212 |
| Route | RT | Alpha Numeric | | 10 | 1 | 213 | 222 |
| Unit Price (99999.9999) | UnitPrice | numeric | 99999.9999 | 10 | 1 | 223 | 232 |
| Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999) | QuantityOrdered | numeric | 999999.9999 | 11 | 1 | 233 | 243 |
| Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999) | QuantityShipped | numeric | 999999.9999 | 11 | 1 | 244 | 254 |
| Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999) | ExtendedPrice | numeric | 99999999.999 | 13 | 1 | 255 | 267 |
| Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract | SaleType | Alpha Numeric | | 1 | 1 | 268 | 268 |
| Bill to Address 1 | billtoaddress1 | Alpha Numeric | | 30 | 1 | 269 | 298 |
| Bill to City | billtocty | Alpha Numeric | | 20 | 1 | 299 | 318 |
| Bill to State (2 alpha postal code) | billtostate | Alpha Numeric | | 2 | 1 | 319 | 320 |
| Bill to Zip (standard 5-4 format, no dash necessary) | billtozip | Alpha Numeric | | 9 | 1 | 321 | 329 |
| Ship to Address 1 | shiptoaddress1 | Alpha Numeric | | 30 | 1 | 330 | 359 |
| Ship to City | shiptocity | Alpha Numeric | | 20 | 1 | 360 | 379 |
| Ship to State (2 alpha postal code) | shiptostate | Alpha Numeric | | 2 | 1 | 380 | 381 |
| Ship to Zip (standard 5-4 format, no dash necessary) | shiptozip | Alpha Numeric | | 9 | 1 | 382 | 390 |
| Service Fee (9999.9999) | ServiceFee | numeric | 9999.9999 | 9 | 1 | 391 | 399 |
| MMCAP Contract Number (MMSxxxxx) | contractnumber | Alpha Numeric | | 10 | 1 | 400 | 409 |
| Admin Fee (9999.9999) | AdminFee | numeric | 9999.9999 | 9 | 1 | 410 | 418 |
| Credit Indicator (C for credit) | CreditIndicator | Alpha Numeric | | 1 | 1 | 419 | 419 |
| MMCAP Assigned Wholesaler Code (AmeriSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, (New codes will be assigned to PPV's during implementation period of the contract) | WholeCode | Alpha Numeric | | 4 | 0 | 420 | 423 |
| Manufacture Name (MFG Name) | MfgName | Alpha Numeric | | 40 | 1 | 424 | 463 |
| Class of Trade | ClassofTrade | Alpha Numeric | | 4 | 1 | 464 | 467 |
| 340b Purchase | 340b | Alpha Numeric | | 1 | 1 | 468 | 468 |

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MMCAP Contract MMS18009

Except as herein amended, the provisions of the original contract are expressly reaffirmed and remain in full force and effect.

1. Lifestyles US Opco dba SXWELL USA, LLC,

The Vendor certifies that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]
 Title: Sales Director
 Date: 6/7/18

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: [Signature]
 Title: SDA-C
 Date: 6/11/2018

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: _____
 Title: _____
 Date: _____

By: [Signature]
 Title: Pharmacist Sr.
 Date: 6-15-18

COMMISSIONER OF ADMINISTRATION
 As delegated to Materials Management Division

By: [Signature]
 Date: 6/21/18

Condoms and Related Products and Pricing

MMCAP Contract MMS18009(SxWell)

Attachment A

Pricing Effective Date: 07/01/2018

| Product Category | Product Size/Type | Mfg Name | Label Name | Full Product Description/Specifications | Mfg Part Nbr | Distributor SKU or Catalog Nbr | Selling Unit | Quantity per Selling Unit | MMCAP Contract Price per Selling Unit |
|------------------|-------------------|----------------|-----------------------------|---|--------------|--------------------------------|--------------|---------------------------|---------------------------------------|
| Condoms, Male | Snugger Fit | SXWELL USA LLC | LifeStyles Snugger Fit | Smaller size lubricated condom, measuring 49mm in width when laid flat. Anatomically shaped for a closer fit. | 5200-101405 | 101405 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Ultra Lubricated | Original lubricated condom silky smooth lubrication for a natural feeling. Our best seller. | 5800-101424 | 101424 | Case | 1000 | \$37.80 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Non-Latex | This condom is made from a revolutionary non-latex material called polyisoprene. Delivers the strength of Premium Latex, with the sensitivity of an Ultra-Thin condom. Flexible material means extra comfort. | 7800-101433 | 101433 | Case | 1000 | \$250.00 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Assorted Colors | Produced in 3 colors: green, red & yellow. Pigments are in latex itself and will not rub off. They are lubricated, non-irritant and harmless to the latex and use. Popular with teens. | 5300-114715 | 114715 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Extra Strength | Is a stronger lubricated condom. | 5900-101407 | 101407 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Tuxedo | Lubricated condom colored in a midnight shade. A LifeStyles exclusive! | 6200-101417 | 101417 | Case | 1000 | \$44.00 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Non-Lubricated | Dry condom with a soft and pleasant finish. | 5700-101423 | 101423 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Ultra Sensitive | Thin lubricated condom. For those seeking heightened sensitivity. | 5400-114716 | 114716 | Case | 1000 | \$37.80 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Assorted Flavors | A lubricated flavored condom in 3 luscious flavors: Tropical Banana, Wild Strawberry and Senuous Vanilla for added fun and excitement. | 6800-101419 | 101419 | Case | 1000 | \$39.50 |

Attachment A cont'

| | | | | | | | | | |
|---------------|---------------------------|----------------|--------------------------------------|--|-------------|--------|------|------|---------|
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Ultrathin | Lubricated condom; 21% thinner than our standard condom. | 6400-101416 | 101416 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Rough Rider | Textured, lubricated condom for heightened sensation. | 4541-101410 | 101410 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles Ribbed | Lubricated and designed with a specially ribbed surface to enhance sensation. | 5600-101408 | 101408 | Case | 1000 | \$39.50 |
| Condoms, Male | Regular Size | SXWELL USA LLC | LifeStyles SPL | Contains Nonoxynol-9, the preferred spermicide, in the lubricated shaped condom. | 5500-114717 | 114717 | Case | 1000 | \$44.00 |
| Condoms, Male | Large or Extra-Large Size | SXWELL USA LLC | LifeStyles KYNG Gold | An Extra Large lubricated condom specifically designed for those who prefer a more relaxed fit. Measures 56 mm in width. Packaged in an eye catching Gold foil | 9800-101326 | 101326 | Case | 1000 | \$39.50 |
| Lubricants | N/A | SXWELL USA LLC | LifeStyles Liquid Personal Lubricant | Formulated with Aloe Vera & Vitamin E (paraben free). Safe to use with latex condoms. Each sachet is 4.5 grams (0.158 oz). | 7000-827043 | 827043 | Case | 1000 | \$36.00 |
| Educational | N/A | SXWELL USA LLC | LifeStyles Beige Wallets | Holds 2-4 condoms | 5003-100300 | 100300 | Box | 75 | \$12.00 |
| Educational | N/A | SXWELL USA LLC | Sex Education Kit | Kit includes Easy to use Carry/Display Case; Teaching manual focused on safer sex education entitled Sex Ed 101: A Collection of Sex Education Lessons, LifeStyles Brand Condoms T-shirt; Penis Demo Model, 50 "How to Use" leaflets; LifeStyles Non-lubricated Condoms and a supply of brochures. | 5006-101160 | 101160 | Each | 1 | \$50.00 |
| Educational | N/A | SXWELL USA LLC | Wooden Demo Model | Wooden Penis Educational Demo Model | 5000-100228 | 100228 | Each | 1 | \$12.00 |
| Educational | N/A | SXWELL USA LLC | Sex Ed 101 | Manual designed to help young people and adults feel more confident and competent dealing with sexual and social issues. Each lesson contains objectives, rationales, recommended materials and step by step procedures. | 5005-100235 | 100235 | Each | 1 | \$18.00 |

| MANUFACTURER PART NUMBER | SUPPLIER PART NUMBER | ITEM DESCRIPTION | EXTENDED DESCRIPTION | UNIT OF MEASURE | LIST PRICE | DELIVERY DAYS |
|--------------------------|----------------------|---|--|-----------------|------------|---------------|
| 5200-101405 | 101405 | Condoms, LifeStyles Snugger Fit | Smaller size lubricated condom, measuring 49mm in width when laid flat. Anatomically shaped for a closer fit. | Case | \$39.50 | 7 |
| 5800-101424 | 101424 | Condoms, LifeStyles Ultra Lubricated | Original lubricated condom silky smooth lubrication for a natural feeling. Our best seller. | Case | \$37.80 | 7 |
| 7800-101433 | 101433 | Condoms, LifeStyles Non-Latex | This condom is made from a revolutionary non-latex material called polyisoprene. Delivers the strength of Premium Latex, with the sensitivity of an Ultra-Thin condom. Flexible material means extra comfort. | Case | \$250.00 | 7 |
| 5300-114715 | 114715 | Condoms, LifeStyles Assorted Colors | Produced in 3 colors: green, red & yellow. Pigments are in latex itself and will not rub off. They are lubricated, non-irritant and harmless to the latex and use. Popular with teens. | Case | \$39.50 | 7 |
| 5900-101407 | 101407 | Condoms, LifeStyles Extra Strength | Is a stronger lubricated condom. | Case | \$39.50 | 7 |
| 6200-101417 | 101417 | Condoms, LifeStyles Tuxedo | Lubricated condom colored in a midnight shade. A LifeStyles exclusive! | Case | \$44.00 | 7 |
| 5700-101423 | 101423 | Condoms, LifeStyles Non-Lubricated | Dry condom with a soft and pleasant finish. | Case | \$39.50 | 7 |
| 5400-114716 | 114716 | Condoms, LifeStyles Ultra Sensitive | Thin lubricated condom. For those seeking heightened sensitivity. | Case | \$37.80 | 7 |
| 6800-101419 | 101419 | Condoms, LifeStyles Assorted Flavors | A lubricated flavored condom in 3 luscious flavors: Tropical Banana, Wild Strawberry and Sensuous Vanilla for added fun and excitement. | Case | \$39.50 | 7 |
| 6400-101416 | 101416 | Condoms, LifeStyles Ultrathin | Lubricated condom; 21% thinner than our standard condom. | Case | \$39.50 | 7 |
| 4541-101410 | 101410 | Condoms, LifeStyles Rough Rider | Textured, lubricated condom for heightened sensation. | Case | \$39.50 | 7 |
| 5600-101408 | 101408 | Condoms, LifeStyles Ribbed | Lubricated and designed with a specially ribbed surface to enhance sensation. | Case | \$39.50 | 7 |
| 5500-114717 | 114717 | Condoms, LifeStyles SPL | Contains Nonoxynol-9, the preferred spermicide, in the lubricated shaped condom. | Case | \$44.00 | 7 |
| 9800-101326 | 101326 | Condoms, LifeStyles KYNG Gold | An Extra Large lubricated condom specifically designed for those who prefer a more relaxed fit. Measures 56 mm in width. Packaged in an eye catching Gold foil | Case | \$39.50 | 7 |
| 7000-827043 | 827043 | Condoms, LifeStyles Liquid Personal Lubricant | Formulated with Aloe Vera & Vitamin E (paraben free). Safe to use with latex condoms. Each sachet is 4.5 grams (0.158 oz). | Case | \$36.00 | 7 |
| 5003-100300 | 100300 | Condoms, LifeStyles Beige Wallets | Holds 2-4 condoms | Box | \$12.00 | 7 |
| 5006-101160 | 101160 | Sex Education Kit | Kit includes Easy to use Carry/Display Case; Teaching manual focused on safer sex education entitled Sex Ed 101: A Collection of Sex Education Lessons, LifeStyles Brand Condoms T-shirt; Penis Demo Model, 50 "How to Use" leaflets; LifeStyles Non-lubricated Condoms and a supply of brochures. | EA | \$50.00 | 7 |
| 5000-100228 | 100228 | Educational Model Wooden Demo | Wooden Penis Educational Demo Model | EA | \$12.00 | 7 |
| 5005-100235 | 100235 | Kit Sex Ed 101 | Manual designed to help young people and adults feel more confident and competent dealing with sexual and social issues. Each lesson contains objectives, rationales, recommended materials and step by step procedures. | EA | \$18.00 | 7 |

AMENDMENT NO. 7 TO MMCAP INFUSE CONTRACT NO. MMS18009

THIS AMENDMENT NO. 7 ("Amendment") is entered into on the date all required signatures are obtained for this document and is by and between the State of Minnesota acting through its Commissioner of Administration ("Minnesota") on behalf of the MMCAP Infuse ("MMCAP Infuse") and Lifestyles US Opco dba SXWELL USA, LLC, a limited liability company with an address of 111 Wood Avenue, Suite 210, Iselin, New Jersey 08830 ("Vendor").

RECITALS

WHEREAS, MMCAP Infuse and Vendor entered into MMS18009 on July 1, 2018 ("Original Contract");

WHEREAS, MMCAP Infuse and Vendor amended certain terms and conditions of the Original Contract by the way of Amendment 6 on September 11, 2019; together, Original Contract and Amendment 6 will be referred to as "Agreement";

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

Capitalized Terms; Definitions; Conditions. The Agreement and Amendment shall be read together as one document. Any capitalized terms used in Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

Clause Modifications:

Revision 1: When fully executed, Section 1.2 of the Agreement will be deleted in its entirety and replaced with the following:

1.2. Expiration date: June 30, 2021, or as cancelled pursuant to Section 35. This Contract may be extended upon mutual agreement of the parties.

Except as herein amended, the provisions of the Agreement between the parties are hereby expressly reaffirmed and remain in full force and effect.

VENDOR: Lifestyles US Opco dba SXWELL USA, LLC

The Vendor certifies that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Susan SimmonsSignature: Susan SimmonsTitle: Public Sector MgrDate: April 13, 2020**STATE OF MINNESOTA FOR MMCAP INFUSE**

In accordance with Minn. Stat. § 16C.03, subd. 3

Name: James BabbittSignature: James BabbittDate: 4/13/2020**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

Name: Jennifer VanderplaatsSignature: Jennifer VanderplaatsDate: 4/13/2020

MMS18009
Amendment #9
Tendered: January 21, 2021

AMENDMENT NO. 9 TO MMCAP INFUSE CONTRACT NO. MMS18009

THIS AMENDMENT NO. 9 ("Amendment") is entered into on the date all required signatures are obtained for this document and is by and between the State of Minnesota acting through its Commissioner of Administration ("Minnesota") on behalf of the MMCAP Infuse ("MMCAP Infuse") and Lifestyles US Opco dba SXWELL USA, LLC, a limited liability company with an address of 111 Wood Avenue, Suite 210, Iselin, New Jersey 08830 ("Vendor").

RECITALS

WHEREAS, MMCAP Infuse and Vendor entered into MMS18009 on July 1, 2018 ("Original Contract");

WHEREAS, MMCAP Infuse and Vendor amended certain terms and conditions of the Original Contract by the way of Amendment 7 on April 13, 2021, and Amendment 8 on December 7, 2020; together, Original Contract and Amendment 7 and 8 will be referred to as "Agreement";

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

Capitalized Terms; Definitions; Conditions. The Agreement and Amendment shall be read together as one document. Any capitalized terms used in Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

Clause Modification:

Revision 1: Section 1.2 of the Agreement will be revised as follows:

1.2. Expiration date: June 30, 2024 2022, or as cancelled pursuant to Section 35. This Contract may be extended upon mutual agreement of the parties.

Except as herein amended, the provisions of the Agreement between the parties are hereby expressly reaffirmed and remain in full force and effect.

VENDOR: Lifestyles US Opco dba SXWELL USA, LLC

The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Elizabeth Kramer
Signature: [Signature]
Title: Sales Operations & Analytics Spec.
Date: 1/22/2021

STATE OF MINNESOTA FOR MMCAP INFUSE

In accordance with Minn. Stat. § 16C.03, subd. 3

Name: DocuSigned by: James Losinski
Signature: James Losinski
Date: 0CAAB984AFAD402/9/2021

COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

Name: DocuSigned by: Wendy Savakes
Signature: Wendy Savakes
Date: BD2D730DDC2A10E 2/16/2021