

STATE OF MICHIGAN  
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET February 29, 2012  
PROCUREMENT  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

REVISED CHANGE NOTICE NO. 8  
TO  
CONTRACT NO. 071B5200208  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
Pacific Regeneration Technologies Box 757 75 Pollard Drive Dryden, Ontario Canada P8N 2Z4 <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
Contract Compliance Inspector: Bill Scullon		BUYER/CA (517) 373-9776 Paula Hurst
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: February 15, 2005		To: June 15, 2012
TERMS	Net 30 Days	SHIPMENT 30 Days ARO
F.O.B.	Delivered	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A		

**NATURE OF CHANGE(S):**

Effective February 29, 2012 the Buyer has been changed to:

Paula Hurst  
Phone: (517) 373-9776  
[Hurstp2@michigan.gov](mailto:Hurstp2@michigan.gov)

**AUTHORITY/REASON:**

Per DTMB Procurement's approval.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$966,250.00**

STATE OF MICHIGAN  
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET February 24, 2012  
PROCUREMENT  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 8  
TO  
CONTRACT NO. 071B5200208  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>	TELEPHONE: Mike Wood <b>(807) 937-8366</b> Fax: <b>(807) 937-8361</b>
	VENDOR NUMBER/MAIL CODE
Contract Compliance Inspector: Bill Scullon	BUYER/CA (517) 373-0301 <b>Sue Cieciva</b>
<b>Seedlings - DNR</b>	
CONTRACT PERIOD: From: <b>February 15, 2005</b>	To: <b>June 15, 2012</b>
TERMS <b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B. <b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

Effective February 24, 2012 the Buyer has been changed to:

**Sue Cieciva**  
Phone: **(517) 373-0301**  
[ciecivas@michigan.gov](mailto:ciecivas@michigan.gov)

**AUTHORITY/REASON:**

Per DTMB Procurement's approval.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$966,250.00**

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET      December 7, 2011  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 7**  
**TO**  
**CONTRACT NO. 071B5200208**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-7233 <b>Don Mandernach</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2012</b>
TERMS	<b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B.	<b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

**NATURE OF CHANGE (S):**

**Effective immediately , this contract is hereby INCREASED by \$195,000.00 to purchase an additional 1.5 million red pine seedlings for reforestation of State Forest lands.**

**In addition, a line item is added to the contract for Red Pine Seedlings at \$130/M in Main.**

**All other terms, conditions and prices remain the same.**

**AUTHORITY/REASON:**

**Per DNR request dated 11/1/2011 and AdBoard approval dated 12/6/2011**

**INCREASE: \$195,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$966,250.00**

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

March 11, 2011

**CHANGE NOTICE NO. 6**  
**TO**  
**CONTRACT NO. 071B5200208**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood <b>(807) 937-8366</b> Fax: <b>(807) 937-8361</b>
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 241-7233 <b>Don Mandernach</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2012</b>
TERMS	<b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B.	<b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

**NATURE OF CHANGE (S):**

**Effective immediately the State of Michigan exercises the second Contract Option year making the new end date for this Contract June 15, 2012. Please note that the buyer has been changed to Don Mandernach.**

**All other terms, conditions and prices remain the same.**

**AUTHORITY/REASON:**

**Per DTMB Purchasing Operations and vendor letter (Mike Wood) dated March 8, 2011.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$771,250.00**

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

March 18, 2010

CHANGE NOTICE NO. 5  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2011</b>
TERMS	<b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B.	<b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

**NATURE OF CHANGE (S):**

Effective immediately the State of Michigan exercises the first Contract Option year making the new end date for this Contract June 15, 2011 and funds of \$148,000.00 are hereby added to this Contract.

In addition, effective immediately price reduction of 5%.

All other terms, conditions and prices remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations, vendor letter (Mike Wood) dated February 10, 2010 and Administrative Board approval on March 16, 2010.

**INCREASE: \$148,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$771,250.00**

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

February 12, 2009

CHANGE NOTICE NO. 4  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2010</b>
TERMS	SHIPMENT	
<b>Net 30 Days</b>	<b>30 Days ARO</b>	
F.O.B.	SHIPPED FROM	
<b>Delivered</b>	<b>N/A</b>	
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

**NATURE OF CHANGE (S):**

Effective immediately, the following line item is added to this Contract.

Item No	Commodity code	U/M	Description	Unit Cost
Item No. 10	595-75	TH	Red Pine Seedlings	\$127.00

All other terms, conditions and prices remain the same.

**AUTHORITY/REASON:**

Per agency request dated February 3, 2009 and vendor agreement letter dated February 4, 2009.

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$623,250.00**

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

January 8, 2009

CHANGE NOTICE NO. 3 (2<sup>ND</sup> REVISION)  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
Pacific Regeneration Technologies Box 757 75 Pollard Drive Dryden, Ontario Canada P8N 2Z4 <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-7374 Joan Bosheff
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: February 15, 2005		To: June 15, 2010
TERMS	Net 30 Days	SHIPMENT 30 Days ARO
F.O.B.	Delivered	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS		
N/A		

**NATURE OF CHANGE (S):**

Effective immediately, this contract is hereby increased by \$222,250.00 and the following line item is added to this Contract.

Item No	Commodity code	U/M	Description	Unit Cost
Item No. 09	595-75	TH	Jack Pine Seedlings	\$127.00

All other terms, conditions and prices remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and the State Administrative Board approval on December 16, 2008.

**INCREASE: \$222,250.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$623,250.00**

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

December 29, 2008

CHANGE NOTICE NO. 3 (REVISED)  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b> <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2010</b>
TERMS	<b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B.	<b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

**NATURE OF CHANGE (S):**

Effective immediately, this contract is hereby increased by \$222,250.00 and the following line item is added to this Contract.

Item No	Commodity code	Description
Item No. 09	595-75	Jack Pine Seedlings

All other terms, conditions and prices remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and the State Administrative Board approval on December 16, 2008.

**INCREASE: \$222,250.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$623,250.00**

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

December 17, 2008

CHANGE NOTICE NO. 3  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
Pacific Regeneration Technologies Box 757 75 Pollard Drive Dryden, Ontario Canada P8N 2Z4 <a href="mailto:Mike.Wood@prtgroup.com">Mike.Wood@prtgroup.com</a>		VENDOR NUMBER/MAIL CODE (001)
		BUYER/CA (517) 373-7374 Joan Bosheff
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: February 15, 2005		To: June 15, 2010
TERMS	Net 30 Days	SHIPMENT 30 Days ARO
F.O.B.	Delivered	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS		
N/A		

**NATURE OF CHANGE (S):**

Effective immediately, this contract is hereby increased by \$222,250.00.

All other terms, conditions and prices remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and the State Administrative Board approval on December 16, 2008.

**INCREASE: \$222,250.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$623,250.00**

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

April 19, 2006

CHANGE NOTICE NO. 2  
 TO  
 CONTRACT NO. 071B5200208  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
Pacific Regeneration Technologies Box 757 75 Pollard Drive Dryden, Ontario Canada P8N 2Z4		VENDOR NUMBER/MAIL CODE (001)
		BUYER/CA (517) 373-7374 Joan Bosheff
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: February 15, 2005		To: June 15, 2010
TERMS	Net 30 Days	SHIPMENT 30 Days ARO
F.O.B.	Delivered	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A		

**NATURE OF CHANGE (S):**

**Addition of the following Line item to Contract as follows:**

COMMODITY NUMBER	U/M	DESCRIPTION	UNIT COST
595-75	TH	Containerized, grown for over one year, seedling with a 3 to 1 shoot to root ratio, top should be a minimum of 6 inches. Seedling should have a 1.8 mm minimum root collar caliper diameter at ground level.	<u>125.00</u>

Pricing includes any/all delivery costs. Seedling to be Delivered between May 1, 2006 and May 20, 2006.

**All other terms, conditions and prices remain the same.**

**AUTHORITY/REASON:**

Per agency and vendor agreement.

**INCREASE: \$156,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$401,000.00**

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

February 17, 2006

CHANGE NOTICE NO. 1  
TO  
CONTRACT NO. 071B5200208  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood (807) 937-8366 Fax: (807) 937-8361
Pacific Regeneration Technologies Box 757 75 Pollard Drive Dryden, Ontario Canada P8N 2Z4		VENDOR NUMBER/MAIL CODE (001)
		BUYER/CA (517) 373-7374 Joan Bosheff
		Contract Compliance Inspector: Bill Scullon
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: February 15, 2005		To: June 15, 2010
TERMS	Net 30 Days	SHIPMENT 30 Days ARO
F.O.B.	Delivered	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A		

**NATURE OF CHANGE (S):**

Effective immediately, the following payment terms are added to this Contract:

50% on sowing  
50% on delivery

All other terms, conditions, specifications and pricing remain unchanged.

**AUTHORITY/REASON:**

Per agency and vendor agreement.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$245,000.00**

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

February 24, 2005

**NOTICE**  
**OF**  
**CONTRACT NO. 071B5200208**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE: Mike Wood <b>(807) 937-8366</b> Fax: <b>(807) 937-8361</b>
<b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b>		VENDOR NUMBER/MAIL CODE <b>(001)</b>
		BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Bill Scullon		
<b>Seedlings - DNR</b>		
CONTRACT PERIOD: From: <b>February 15, 2005</b>		To: <b>June 15, 2010</b>
TERMS	<b>Net 30 Days</b>	SHIPMENT <b>30 Days ARO</b>
F.O.B.	<b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS		
<b>N/A</b>		

The terms and conditions of this Contract are those of **ITB #07114001338** this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

**Estimated Contract Value: \$245,000.00**

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

**CONTRACT NO. 071B5200208**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Pacific Regeneration Technologies</b> <b>Box 757</b> <b>75 Pollard Drive</b> <b>Dryden, Ontario Canada P8N 2Z4</b>	TELEPHONE: Mike Wood <b>(807) 937-8366</b> Fax: <b>(807) 937-8361</b>
	VENDOR NUMBER/MAIL CODE <b>(001)</b>
	BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Bill Scullon <p style="text-align: center;"><b>Seedlings - DNR</b></p>	
CONTRACT PERIOD: From: <b>February 15, 2005</b> To: <b>June 15, 2010</b>	
TERMS <p style="text-align: center;"><b>Net 30 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>30 Days ARO</b></p>
F.O.B. <p style="text-align: center;"><b>Delivered</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of <a href="#">ITB #071I4001338</a> this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</b>	
<b>Estimated Contract Value: \$245,000.00</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No.071I4001338](#). Orders for delivery of equipment will be issued directly by the [Department of Natural Resources](#) through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

**FOR THE VENDOR:**

**FOR THE STATE:**

Pacific Regeneration Technologies  
 Firm Name

---

Authorized Agent Signature

---

Authorized Agent (Print or Type)

---

Date

Signature  
Joan Bosheff , Buyer Specialist  
 Name

---

**Commodities Division, Acquisition Services**  
 Title

---

Date



**STATE OF MICHIGAN**  
**Department of Management and Budget**  
**Acquisition Services**

Contract #071B5200208  
[Seedlings](#)

Buyer Name: Joan Bosheff  
Telephone Number: (517) 373-7374  
E-Mail Address: [bosheffj@michigan.gov](mailto:bosheffj@michigan.gov)

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**ATTACHMENT**  
**Item Listing**



## Article1 – Statement of Work (SOW)

### 1.0 Introduction

#### 1.001 PROJECT TITLE AND DESCRIPTION

This is a Contract for Seedlings for the Department of Natural Resources.

#### 1.002 PROJECT CONTROL

##### Project Control

The Contractor will carry out this project under the direction and control of the Department of Natural Resources.

### 1.1 Product Quality

#### 1.101 SPECIFICATIONS

Eastern hemlock and eastern white pine seedling types and specifications for each year 2006-2010 per the following:

##### Bare Root Hemlock

3-0 (grown for three full growing seasons ideally); seedlings with a 2 to 1 shoot to root ratio (top shoot should be a minimum 4 inches plus, 6 to 12 inches optimal); root mass should be as large as possible; seedling should have a 4 mm plus root collar caliper diameter at ground level.

##### Greenhouse Accelerated Containerized Hemlock

2-0 (grown under accelerated greenhouse conditions to simulate two full growing seasons ideally); seedlings with a 2 to 1 shoot to root ratio (top shoot should be a minimum 6 inches plus, 8 to 10 inches optimal); root mass should be as large as possible; seedling should have a 4 mm plus root collar caliper diameter at ground level.

##### Containerized Hemlock

3-0 (grown for three full growing seasons ideally); seedlings with a 2 to 1 shoot to root ratio (top shoot should be a minimum 6 inches, 12 inches plus optimal); root mass should be as large as possible; seedling should have a 4 mm plus root collar caliper diameter at ground level.

##### Bare Root White Pine

3-0 (grown for three full growing seasons ideally); seedlings with a 2 to 1 root ratio (top shoot should be a minimum 6 inches, 12 inches plus optimal); root mass should be as large as possible; seedling should have a 4 mm plus root collar caliper diameter at ground level.

##### Containerized White Pine

3-0 (grown for three full growing seasons ideally); seedlings with a 2 to 1 shoot to root ratio (top shoot should be a minimum 6 inches, 12 inches plus optimal); root mass should be as large as possible; seedling should have a 4 mm plus root collar caliper diameter at ground level.

Seedling considerations for all types: seed is to be collected, cleaned, and stratified by grower unless otherwise specified; seed sources should be local in origin within the Upper Peninsula region; seedlings are to be delivered to East UP or West UP Wildlife Management Unit by spring (April-May exact date to be specified later) of desired year; seedlings should be graded according to type specifications.



Estimated advance notification necessary from agency to schedule growing of seedling:  
36 months for 3-0 Bare Root Hemlock seedlings  
24 months for 2-0 Greenhouse Accelerated Containerized Hemlock seedlings.  
36 months for 3-0 Containerized Hemlock seedlings  
36 months for 3-0 Bare Root White Pine seedlings  
36 months for 3-0 Containerized White Pine seedlings

## **1.2 Service Capabilities**

### **1.201 CUSTOMER SERVICE/ORDERING**

Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule.

All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods.

### **1.202 TRAINING**

The Contractor shall provide training to individual agencies, when necessary, on aspects of ordering, shipping, billing, and receiving. At the request of the Contract Administrator, the Contractor shall provide in-service training to agency personnel on products, installation, and product safety issues. The Contractor shall also provide agency training jointly with the State as needed during the period covered by the contract at no additional charge.

### **1.203 REPORTING**

The Contractor shall be able to provide various reports, when requested by the State. Examples include itemized report of total items (commodities and services) purchased by all agencies or individual agencies, open invoice reports, delivery compliance reports, quantity reports, service compliance reports, etc.

### **1.204 SECURITY**

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities.

## **1.3 Delivery Capabilities**

### **1.301 TIME FRAMES**

Shipping dates will be determined by the Department of Natural Resources.

### **1.302 MINIMUM ORDER**

There is no minimum order requirement.

### **1.303 PACKAGING**

Packaging and containers, etc., shall be in accordance with supplier's commercial practice and shall meet the requirements of Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

### **1.304 PALLETIZING**

Shipments shall be palletized whenever possible and shall conform to the following:



- Manufacturers standard 4-way shipping pallets are acceptable.
- Maximum height: 5'6"; including pallet.
- Maximum weight: 3500 pounds; including pallet.
- Pallets are to be securely banded or shrink-wrapped.
- The cost of palletizing must be included in the unit price.

#### **1.305 DELIVERY TERM**

Prices are "F.O.B. Delivered" with transportation charges prepaid on all orders.

#### **1.306 RESERVED**

### **1.4 Project Price**

#### **1.401 PRICING**

See attached Item Listing for Contract pricing.

#### **1.402 PRICE TERM**

Prices are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Acquisition Services reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Acquisition Services also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST THIRTY DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.



## **Article 2 – General Terms and Conditions**

### **2.0 Introduction**

#### **2.001 GENERAL PURPOSE**

The Contract is for Seedlings for the State of Michigan, Department of Natural Resources. Exact quantities to be purchased are unknown; however, the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by the Department of Natural Resources on the Purchase Order Contract Release Form.

#### **2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR**

The Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services, for the Department of Natural Resources, hereinafter known as DNR. Where actions are a combination of those of Acquisition Services and DNR, the authority will be known as the State.

Acquisition Services is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

**The Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Acquisition Services and the listed contract administrator**

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget  
Acquisition Services  
ATTN: Joan Bosheff  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
Phone: (517) 373-7374  
Fax: (517) 335-0046  
E-Mail: [bosheffj@michigan.gov](mailto:bosheffj@michigan.gov)

#### **2.003 NOTICE**

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.



## 2.004 CONTRACT TERM

The term of this Contract will be for five (5) years and will commence with the issuance of a Contract. This will be approximately February 15, 2005, through June 15, 2010.

**Option.** The State reserves the right to exercise two one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

**Extension.** At the sole option of the State, the contract may also be extended. Contractor performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Written notice will be provided to the Contractor within 30 provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government exercises this option, the extended contract shall be considered to include this option clause.

## 2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

## 2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

MI OSHA MCL §§ 408.1001 – 408.1094

Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.

Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.

MI Consumer Protection Act MCL §§ 445.901 – 445.922

Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.

Department of Civil Service Rules and regulations

Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.

Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.

MCL §§ 423.321, et seq.

MCL § 18.1264 (law regarding debarment)

Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.

Contract Work Hours and Safety Standards Act (CWHSAA) 40 USCS § 327, et seq.

Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795

Rules and regulations of the Environmental Protection Agency

Internal Revenue Code

Rules and regulations of the Equal Employment Opportunity Commission (EEOC)

The Civil Rights Act of 1964, USCS Chapter 42

Title VII, 42 USCS §§ 2000e et seq.

The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.

The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.

The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.

The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.

The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106



Sherman Act, 15 U.S.C.S. § 1 et seq.  
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.  
Clayton Act, 15 U.S.C.S. § 14 et seq.

## **2.007 RELATIONSHIP OF THE PARTIES**

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

## **2.008 HEADINGS**

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

## **2.009 MERGER**

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

## **2.010 SEVERABILITY**

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

## **2.011 SURVIVORSHIP**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

## **2.012 NO WAIVER OF DEFAULT**

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

## **2.013 PURCHASE ORDERS**

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

## **2.1 Vendor/Contractor Obligations**

### **2.101 ACCOUNTING RECORDS**

The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

### **2.102 RESERVED**



2.103 RESERVED

2.104 RESERVED

2.105 RESERVED

2.106 RESERVED

2.107 RESERVED

2.108 RESERVED

2.109 RESERVED

## 2.2 Contract Performance

### 2.201 TIME IS OF THE ESSENCE

Contractor/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State a right to invoke all remedies available to it under this contract.

2.202 RESERVED

2.203 RESERVED

2.204 RESERVED

### 2.205 ELECTRONIC PAYMENT AVAILABILITY

Electronic transfer of funds is available to State contractors. Vendors are encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

2.206 RESERVED

## 2.3 Contract Rights and Obligations

### 2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

### 2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve subcontractors and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the State, in writing, prior to such change.

**2.303 ASSIGNMENT AND DELEGATION**

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

**The Contractor must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that bidder provided in the bid.**

**2.304 TAXES**

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

**2.305 INDEMNIFICATION**General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;



5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

#### Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

#### Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

#### Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

#### Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

#### Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

- (a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of



written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.
- (c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

### **2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

### **2.307 CONTRACT DISTRIBUTION**

Acquisition Services shall retain the sole right of Contract distribution to DNR unless other arrangements are authorized by Acquisition Services.

### **2.308 FORM, FUNCTION, AND UTILITY**

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.



### 2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

### 2.310 RESERVED

### 2.311 RESERVED

### 2.312 RESERVED

### 2.313 RESERVED

### 2.314 WEBSITE INCORPORATION

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

## 2.4 Contract Review and Evaluation

### 2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Acquisition Services of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract. That authority is retained by Acquisition Services.** The Contract Compliance Inspector for this project is:

Bill Scullon  
Deer Range Improvement Program Coordinator  
Department of Natural Resources  
Escanaba Field Office  
6833 US-2, 41 & M-35  
Gladstone, MI 49837  
Phone: (906) 786-2351 ext. 116  
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### 2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with DNR may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

### 2.403 RESERVED



**2.5 Quality and Warranties**

**2.501 PROHIBITED PRODUCTS**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Acquisition Services has approved a change.

**2.502 QUALITY ASSURANCE**

The State reserves the right to periodically test products, which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

1. All costs of testing and laboratory analysis.
2. Disposal and/or replacement of all products which fail to meet specifications.
3. All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

**2.503 INSPECTION**

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of the Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

**2.504 GENERAL WARRANTIES (goods)**

*Warranty of Merchantability* – Goods provided by vendor under this agreement shall be merchantable. All goods provided under this contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.

*Warranty of fitness for a particular purpose* – When vendor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the vendor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

*Warranty of title* – Vendor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by vendor, under this agreement, shall be delivered free of any rightful claim of any third person by of infringement or the like.

**2.505 RESERVED**

**2.506 RESERVED**

**2.507 RESERVED**

**2.508 RESERVED**

**2.509 RESERVED**

**2.6 Breach of Contract****2.601 BREACH DEFINED**

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

**2.602 NOTICE AND THE RIGHT TO CURE**

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

**2.603 EXCUSABLE FAILURE**

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaroud plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaroud plans or other means.



## 2.7 Remedies

### 2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.



5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.702 RESERVED

2.703 RESERVED

2.704 RESERVED

2.705 RESERVED

## 2.8 Changes, Modifications, and Amendments

### 2.801 APPROVALS

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

### 2.802 TIME EXTENTIONS

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

### 2.803 MODIFICATION

Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. **IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.**

**The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor.** The item(s) may be included on the Contract, only if prior written approval has been granted by Acquisition Services.

2.804 RESERVED

2.805 RESERVED

### 2.806 LIABILITY INSURANCE

#### A. Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.



The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

All insurance coverage provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See [www.michigan.gov/cis](http://www.michigan.gov/cis)

Where specific limits are shown, they are the minimum acceptable limits. If Contractor’s policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Acquisition Services, certificate(s) of insurance verifying insurance coverage (“Certificates”). The Certificate must be on the standard “accord” form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State’s sole option, result in this Contract’s termination.

The Contractor is required to pay for and provide the type and amount of insurance checked **below**:

- 1. Commercial General Liability with the following minimum coverage:
  - \$2,000,000 General Aggregate Limit other than Products/Completed Operations
  - \$2,000,000 Products/Completed Operations Aggregate Limit
  - \$1,000,000 Personal & Advertising Injury Limit
  - \$1,000,000 Each Occurrence Limit
  - \$500,000 Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor’s business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.



- 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.
- 4. Employers liability insurance with the following minimum limits:

  - \$100,000 each accident
  - \$100,000 each employee by disease
  - \$500,000 aggregate disease
- 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).
- 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
- 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
- 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

**B. Subcontractors**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.



**C. Certificates of Insurance and Other Requirements**

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.



ITEM LISTING

ITEM	COMMODITY NUMBER	U/M	DESCRIPTION	UNIT COST
001	595-75	TH	<p>Estimated Spring 2006 Needs: Eastern Hemlock, containerized, 2-0, grown for two full growing seasons, seedlings with a 2 to 1 shoot to root ratio, top shoot should be a minimum of 6 inches. Seedling should have a 4 mm minimum root collar caliper diameter at ground level. (MDNR reserves the right to accept 2-0 or 1-0 accelerated growth or 3-0 containerized in the event vendor cannot provide 2-0 as requested.)</p> <p>Pricing for 2-0 accelerated growth = \$250.00/TH                      Pricing for 1-0 accelerated growth = \$250.00/TH                      Pricing for 3-0 containerized = \$250.00/TH</p>	<u>\$250.00</u>
002	595-75	TH	<p>Estimated Spring 2007 Needs: Eastern Hemlock, containerized, 3-0; grown for three full growing seasons, seedlings with a 2 to 1 shoot to root ratio, top shoot should be a minimum of 6 inches. Seedling should have a 4 mm minimum root collar caliper diameter at ground level. (MDNR reserves the right to accept 2-0 accelerated or 2-0 containerized seedlings in the event vendor cannot provide 3-0 as requested.)</p> <p>Pricing for 2-0 accelerated growth = \$180.00/TH                      Pricing for 2-0 containerized = \$180.00/TH</p>	<u>\$180.00</u>
003	595-75	TH	<p>Estimated Spring 2008 Needs: Eastern Hemlock or Eastern White Pine. Specific quantities and species have yet to be determined.</p> <p>\$180.00/TH for containerized Eastern Hemlock                      \$180.00/TH for containerized Eastern White Pine</p> <p>Date when MDNR would need to place definite quantities to be purchased to provide adequate nursery time:  <u>October 1, 2006</u></p>	<u>\$180.00</u>
004	595-75	TH	<p>Estimated Spring 2009 Needs: Eastern Hemlock or Eastern White Pine. Specific quantities and species have yet to be determined.</p> <p>\$185.00/TH for containerized Eastern Hemlock                      \$185.00/TH for containerized Eastern White Pine</p> <p>Date when MDNR would need to place definite quantities to be purchased to provide adequate nursery time:  <u>October 1, 2007</u></p>	<u>\$185.00</u>



ITEM	COMMODITY NUMBER	U/M	DESCRIPTION	UNIT COST
005	595-75	TH	<p>Estimated Spring 2010 Needs: Eastern Hemlock or Eastern White Pine. Specific quantities and species have yet to be determined.</p> <p>\$190.00/TH for containerized Eastern Hemlock                      \$190.00/TH for containerized Eastern White Pine</p> <p>Date when MDNR would need to place definite quantities to be purchased to provide adequate nursery time:  <u>October 1, 2008</u></p>	<u>\$190.00</u>

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 Escanaba Field Office  
 6833 US Highway 2 41 M35  
 Gladstone, MI 49837-2552