



STATE OF MICHIGAN PROCUREMENT
 Department of Natural Resources
 525 West Allegan, Constitution Hall, Third Floor
 Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **3**
 to
 Contract Number **23000000196**

CONTRACTOR	Robinson Wholesale Bait, LLC
	603 Freeman Street
	Genoa City, WI 53128
	Dave Robinson
	262-279-6888
	dave@robinsonwholesaleinc.com
	CV0129085

STATE	Program Manager	Aaron Switzer	DNR
		231-383-2565	
		Switzera1@michigan.gov	
STATE	Contract Administrator	Brooke Jones	DNR
		517-388-6833	
		Jonesb30@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Fathead, Tuffy #1 and Tuffy #2, and Golden Shiner Minnows for Musky Forage				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
December 6, 2022	December 5, 2025	Two 1-year Options to Renew	December 5, 2025	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		7 Days ARO		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
500 Lbs.				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		December 5, 2026
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,491,500.00		\$0.00	\$1,491,500.00	
DESCRIPTION: Effective December 5, 2025, the DNR exercises the first available option year. The revised expiration date is December 5, 2026. In addition, the contract administrator has been updated to Brooke Jones. All other terms, conditions, and specifications remain the same per Contractor and DNR agreement.				

FOR THE CONTRACTOR:

Robinson Wholesale Bait, LLC
Company Name

****Signed copy with DNR Procurement****
Authorized Agent Signature

Dave Robinson
Authorized Agent (Print or Type)

Date

FOR THE STATE:

****Signed copy with DNR Procurement****
Signature

Laura Gyorkos, Procurement Manager
Name & Title

Department of Natural Resources
Agency

Date



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Constitution Hall, Third Floor
Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Contract Number **230000000196**

CONTRACTOR	Robinson Wholesale Bait, LLC
	603 Freeman Street
	Genoa City, WI 53128
	Dave Robinson
	262-279-6888
	dave@robinsonwholesaleinc.com
	CV0129085

STATE	Program Manager	Aaron Switzer	DNR
		231-383-2565	
		SwitzerA1@michigan.gov	
STATE	Contract Administrator	Lisa Crozier-Green	DNR
		517-388-6626	
		CrozierGrenL@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Fathead, Tuffy #1 and Tuffy #2, and Golden Shiner Minnows for Musky Forage			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
December 6, 2022	December 5, 2025	Two 1-Year Options to Renew	December 5, 2025
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		7 Days ARO	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
500 Lbs.			
DESCRIPTION OF CHANGE NOTICE			
OPTION	LENGTH OF OPTION	EXTENSION	REVISD EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>	December 5, 2025
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
\$1,310,500.00		\$0.00	\$1,491,500.00
DESCRIPTION: Effective July 17, 2024 pricing on this Contract is increased per attached Schedule B – REVISED 7/17/24. Per Contractor and DNR agreement, and DTMB approval.			

SCHEDULE B - PRICING

Department of Natural Resources
Fisheries Division
Fathead Minnows for Muskellunge Forage
Contract Number 230000000196

1. Price proposed includes shipping F.O.B. Destination to the locations included in this Contract. Price proposed must include all costs including but not limited to any fees, set-up charges, or other potential costs the Contractor may charge the State.
2. The Contractor is not offering quick payment terms.

VENDOR PRICE QUOTE – REVISED 7/17/24

Price proposed includes shipping F.O.B. Destination to Wolf Lake or Thompson

WOLF LAKE				
	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
1	Fathead Minnows – STRAIGHT RUN	40,000	\$ 6.90	\$276,000.00
2	Fathead Minnows – #2 TUFFY FRY	10,000	\$10.25	\$102,500.00
	Fathead Minnows – #2 TUFFY FRY		\$10.85	
3	Fathead Minnows – #1 TUFFY	7,500	\$14.75	\$110,625.00
	Fathead Minnows – #1 TUFFY		\$16.00	
4	MD Golden Shiner	2,500	\$ 8.60	\$ 21,500.00
	MD Golden Shiner		\$ 9.00	
Total Quote for WOLF LAKE				\$510,625.00
THOMPSON				
	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
5	Fathead Minnows – STRAIGHT RUN	60,000	\$ 7.50	\$450,000.00
6	Fathead Minnows – #2 TUFFY FRY	25,000	\$11.00	\$275,000.00
	Fathead Minnows – #2 TUFFY FRY		\$11.75	
7	Fathead Minnows – #1 TUFFY	15,000	\$15.50	\$232,500.00
	Fathead Minnows – #1 TUFFY		\$17.00	
8	MD Golden Shiner	2,500	\$ 9.35	\$ 23,375.00
	MD Golden Shiner		\$ 9.75	
Total Quote for THOMPSON				\$980,875.00
5-YEAR ESTIMATED CONTRACT VALUE				\$1,491,500.00

FOR THE CONTRACTOR:

Robinson Wholesale Bait,

Company Name

E-SIGNED by Dave Robinson
on 2024-07-23 12:29:41 EDT

Authorized Agent Signature

Dave Robinson

Authorized Agent (Print or Type)

2024-07-23 12:29:41 UTC

Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2024-08-07 13:59:43 EDT

Signature

Laura L. Gyorkos, Procurement Services Manager

Name & Title

Department of Natural Resources

Agency

2024-08-07 13:59:43 UTC

Date



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Constitution Hall, Third Floor
Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 1

to

Contract Number 23000000196

CONTRACTOR	Robinson Wholesale Bait, LLC
	603 Freeman Street
	Genoa City, WI 53128
	Dave Robinson
	262-279-6888
	dave@robinsonwholesaleinc.com
	CV0129085

STATE	Program Manager	Aaron Switzer	DNR
		231-383-2565	
	SwitzerA1@michigan.gov		
	Contract Administrator	Lisa Crozier-Green	DNR
517-388-6626			
CrozierGrenL@michigan.gov			

CONTRACT SUMMARY				
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PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		7 Days ARO		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
500 Lbs.				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		December 5, 2025
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,310,500.00		\$181,000.00	\$1,491,500.00	
DESCRIPTION: Effective July 17, 2023 pricing on this Contract is increased per attached Schedule B – REVISED 7/11/23. This Contract is increased by \$181,000.000 for DNR use. Per Contractor and DNR agreement, and DTMB approval.				

SCHEDULE B - PRICING

Department of Natural Resources

Fisheries Division Fathead Minnows for Muskellunge Forage Contract Number 230000000196

1. Price proposed includes shipping F.O.B. Destination to the locations included in this Contract. Price proposed must include all costs including but not limited to any fees, set-up charges, or other potential costs the Contractor may charge the State.
2. The Contractor is not offering quick payment terms.

VENDOR PRICE QUOTE – REVISED 7/17/23

Price proposed includes shipping F.O.B. Destination to Wolf Lake or Thompson

WOLF LAKE				
	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
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4	MD Golden Shiner	2,500	\$ 8.60	\$ 21,500.00
Total Quote for WOLF LAKE				\$510,625.00
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	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
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7	Fathead Minnows – #1 TUFFY	15,000	\$15.50	\$232,500.00
8	MD Golden Shiner	2,500	\$ 9.35	\$ 23,375.00
Total Quote for THOMPSON				\$980,875.00
5-YEAR ESTIMATED CONTRACT VALUE				\$1,491,500.00

FOR THE CONTRACTOR:

Robinson Wholesale Bait,

Company Name

E-SIGNED by Dave Robinson
on 2023-07-21 16:53:00 EDT

Authorized Agent Signature

Dave Robinson

Authorized Agent (Print or Type)

2023-07-21 16:53:00 UTC

Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2023-07-24 07:15:37 EDT

Signature

Laura L. Gyorkos, Procurement Services Manager

Name & Title

Department of Natural Resources

Agency

2023-07-24 07:15:37 UTC

Date



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Constitution Hall, Third Floor
Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **23000000196**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Robinson Wholesale Bait, LLC
	603 Freeman Street
	Genoa City, WI 53128
	Dave Robinson
	262-279-6888
	dave@robinsonwholesaleinc.com
	CV0129085

STATE	Program Manager	Aaron Switzer	DNR
		231-383-2565	
		SwitzerA1@michigan.gov	
	Contract Administrator	Lisa Crozier-Green	DNR
		517-388-6626	
		CrozierGreenL@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: Fathead, Tuffy #1 and Tuffy #2, and Golden Shiner Minnows for Musky Forage

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PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45	7 Days ARO

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS
500 Lbs.

MISCELLANEOUS INFORMATION

THIS IS NOT AN ORDER: Orders will be placed directly by the DNR via the authorized document established in Schedule A, Section 5.1. Authorizing Documents and per the terms, conditions, specifications, and pricing of this Contract.

The terms and conditions of this Contract are those of RFP 22000003277, this Contract Agreement and the vendor's quote dated October 28, 2022. In the event of any conflicts between the specifications and / or terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence. Pending State Administrative Board approval on December 13, 2022.

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION	\$1,310,500.00
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FOR THE CONTRACTOR:

Robinson Wholesale Bait, LLC

Company Name

E-SIGNED by Dave Robinson
on 2022-11-04 13:17:54 EDT

Authorized Agent Signature

David Robinson

Authorized Agent (Print or Type)

2022-11-04 13:17:54 UTC

Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2022-12-06 17:28:40 EST

Signature

Laura L. Gyorkos, Procurement Services Manager

Name & Title

Department of Natural Resources

Agency

2022-12-06 17:28:40 UTC

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Robinson Wholesale Bait, LLC (“**Contractor**”), a Wisconsin Limited Liability Company.

This Contract is effective on **December 6, 2022** (“**Effective Date**”), and unless terminated, will expire on **December 5, 2025** (the “**Term**”). Contract may be renewed for up to TWO 1-Year Options to Renew. Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities unless otherwise specified in a Statement of Work.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

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

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

verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Lisa Crozier-Green 525 West Allegan, Constitution Hall, 3 rd Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	David Robinson Robinson Wholesale Bait, LLC 603 Freeman Street Genoa City, WI 53128 262-279-6888

3. **Contract Administrator.** The Contract Administrator, or the individual duly authorized for each party, is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

If to State:	If to Contractor:
Lisa Crozier-Green 525 West Allegan, Constitution Hall, 3 rd Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	David Robinson Robinson Wholesale Bait, LLC 603 Freeman Street Genoa City, WI 53128 262-279-6888

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Aaron Switzer 231-383-2565 SwitzerA1@michigan.gov	David Robinson Robinson Wholesale Bait, LLC 603 Freeman Street Genoa City, WI 53128 262-279-6888

5. **Performance Guarantee.** Contractor must always have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in a Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.**

Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or otherwise result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

TABLE 6.1

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
Automobile Liability Insurance	
Minimum Limits: \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

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

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

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

- 7. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 8. Intellectual Property Rights.** If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
- 9. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 10. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 11. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested.

Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.

- 12. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 13. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

- 14. Ordering.** is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 15. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 24, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 16. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in a Statement of Work. All containers and packaging become the State's exclusive property upon acceptance.
- 17. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
- 18. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in a Statement of Work. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 19. Invoices and Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities provided as specified in a Statement of Work. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

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

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

- 20. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- 21. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
- 22. Termination for Cause.** (a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of any facility, data, or personnel; (ii) becomes insolvent,

petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (iii) engages in any conduct that may expose the State to liability; (iv) breaches any of its material duties or obligations under this Contract; or (v) fails to cure a breach within the time stated by the State in a notice of breach, if in its sole discretion the State has chosen to provide a time to cure. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Contract Activities accepted by the State under this Contract or (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 25, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any fees prepaid by the State prorated to the date of such termination, including any prepaid fees. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

- 23. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.
- 24. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period specified by the State (not to exceed **90** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may

include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 25. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.
- 26. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 30. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.
- 31. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

- a. **Meaning of Confidential Information.** For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. **Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor’s responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State’s Confidential Information in confidence. At the State’s request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. **Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. **Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the

foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

- e. **Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

- 32. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

- 33. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer

to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 24, Termination for Cause.

- 34. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 35. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 36. Prevailing Wage.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract.
- 37. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 38. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

- 39. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.
- 40. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 41. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 42. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 43. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 44. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Document Title	Document Description
Schedule A	Statement of Work
Schedule B	Vendor Price Quote

- 45. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR’S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE’S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 46. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 47. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 48. Survival.** Any right, obligation, or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- 49. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a “**Contract Change Notice**”). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

FEDERAL PROVISIONS ADDENDUM

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

1. Equal Employment Opportunity

If this Contract is a "**federally assisted construction contract**" as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Davis-Bacon Act (Prevailing Wage)

If this Contract is a **prime construction contract** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

Copeland "Anti-Kickback" Act

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti-Kickback" Act ([40 USC 3145](#)), as supplemented by Department of Labor

regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- a. Contractor.** The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

Contract Work Hours and Safety Standards Act

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- a. Overtime requirements.** No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District, or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- c. Withholding for unpaid wages and liquidated damages.** The State shall

upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- d. Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Rights to Inventions Made Under a Contract or Agreement

If the Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act and the Federal Water Pollution Control Act

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671g](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

Clean Air Act

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

Federal Water Pollution Control Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

Debarment and Suspension

A "contract award" (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549](#) (51 FR 6370; February 21, 1986) and 12689 (54 FR 34131; August 18, 1989), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- a. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in Exhibit 1 – Byrd Anti-Lobbying Certification below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of

Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Procurement of Recovered Materials

Under [2 CFR 200.322](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- b. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Additional FEMA Contract Provisions.

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

1. **Access to Records.** The following access to records requirements apply to this contract:
 - a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions
 - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed
 - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract

In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

2. Changes.

See the provisions regarding modifications or change notice in the Contract Terms.

3. DHS Seal Logo and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

4. Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

5. No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

6. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

EXHIBIT 1

BYRD ANTI-LOBBYING CERTIFICATION

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Robinson Wholesale Bait, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

E-SIGNED by Dave Robinson
on 2022-11-04 13:17:54 EDT

Signature of Contractor's Authorized Official

David Robinson

Name and Title of Contractor's Authorized Official

December 6, 2022

Date

SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

Department of Natural Resources

Fisheries Division

Fathead Minnows for Muskellunge Forage

Contract Number 230000000196

BACKGROUND

Fathead minnows are used as forage for Muskellunge (*Esox masquinong*) or “Musky” production at Wolf Lake and Thompson State Fish Hatcheries.

Minnows are purchased as needed, typically between April and November each year.

The quantities included in this Contract represent the State’s anticipated requirements for a period of five years. Quantities purchased will vary from year to year based on the number of Muskellunge produced.

REQUIREMENTS

Requirements

1. General Requirements

1.1. Product Specifications

The Contractor agrees to provide the following:

- A. Fathead minnows – straight-run HAACP certified; Aquatic Nuisance Species (ANS) free; certified disease free for all viruses, including VHSV and Fathead minnow nidovirus, and for Heterosporis; 100% free of contamination with other species or exotics.
- B. Fathead minnows – #2 Tuffy Fry – small grade, farm-raised (below 14 grade – also known as “tuffy fry”); HAACP certified; Aquatic Nuisance Species (ANS) free; certified disease free for all viruses, including VHSV and Fathead minnow nidovirus, and for Heterosporis; 100% free of contamination with other species or exotics.
- C. Fathead minnows – #1 Tuffy – Grade 10 AR Farm Raised, HAACP certified; Aquatic Nuisance Species (ANS) free; certified disease free for all viruses, including VHSV and Fathead minnow nidovirus, and for Heterosporis; 100% free of contamination with other species or exotics.
- D. MD Golden Shiner Minnows, Farm Raised, HAACP certified; Aquatic Nuisance Species (ANS) free; certified disease free for all viruses, including VHSV and Fathead minnow nidovirus, and for Heterosporis; 100% free of contamination with other species or exotics.

1.2. Warranties - RESERVED

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

1.3. Quality Assurance Program

The Contractor strives to provide a high-grade product and will address any quality issues as they arise.

1.4. Incentives

The Contractor is not offering a quick payment discount.

1.5 Transition

- A. **Post-Contract Transition:** The Contractor agrees, all invoices will be sent within 45 days after expiration of contract. Any invoices received after 45 days will result in a non-payment of invoice.

2. Service Requirements

2.1. Delivery

- A. Delivery will be expected within seven (7) calendar days upon date of order during business hours.
- B. Delivery will be made at:
 - 1. Wolf Lake State Fish Hatchery, 34270 County Road 652, Mattawan, Michigan 49071
 - 2. Thompson State Fish Hatchery, 944 South State Highway, Manistique, Michigan 49854

2.2. Reporting

- A. The Contractor agrees to submit the following to the Wolf Lake or Thompson State Fish Hatchery staff who meet the delivery truck:
 - 1. Fish Health Certification. For each load of minnows delivered to the hatchery, the Contractor shall provide fish health certifications.
 - 2. The Contractor must also provide fish health certifications for any facilities or locations where fathead minnows are obtained by the Contractor, prior to delivery to Wolf Lake or Thompson State Fish Hatchery, to confirm their acceptance.
 - 3. The State reserves the right to request any reports it may deem necessary.

2.3. Meetings

- A. The State reserves the right to schedule any meetings deemed appropriate. The Contractor agrees to attend any meetings required by the State.

3. Staffing

3.1. Contractor Representative

The Contractor agrees to appoint one individual specifically assigned to State of Michigan accounts who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor agrees to notify the Contract Administrator at least FIVE (5) calendar days before removing or assigning a new Contractor Representative.

Contractor Representative	
Name:	Dave Robinson
Phone:	262-279-6888
Email:	dave@robinsonwholesaleinc.com
Days Available:	Monday - Friday
Times Available:	7:00 a.m. – 4:00 p.m. EST
Preferred Contact Method:	<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email

3.2. Key Personnel

The Contractor agrees to appoint one individual who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”). May be the same individual as the Contractor Representative. Key Personnel will be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 8 business hours. The Contractor may not remove or assign Key Personnel without the prior consent of the State. Prior consent is not required for reassignment for reasons beyond the Contractor’s control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause.

Key Personnel	
Name:	Dave Robinson
Phone:	262-279-6888
Email:	dave@robinsonwholesaleinc.com
Days Available:	Monday - Friday
Times Available:	7:00 a.m. – 4:00 p.m. EST
Preferred Contact Method:	<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email

3.3. Subcontractor(s)

- A. The Contractor does not intend to utilize subcontractors.
- B. In the event the Contractor requires the use of subcontractors, the Contractor agrees to remain responsible for Subcontractor during performance of sub-contracted Contract Activities. Subcontractor information will be provided, and Subcontractors will provide any required insurance certificates prior to performing Contract Activities.

Subcontractor	
Name:	
Phone:	
Email:	
Preferred Contact Method:	<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Text <input type="checkbox"/> Email
Contract Activities to be performed by the Subcontractor:	

4 Pricing

4.1 Price Term

- A. Pricing is firm for a 365-day period (“Pricing Period”). The first pricing period begins on the Effective Date of the Contract. Adjustments may be requested in writing by either party and will take effect no earlier than the next Pricing Period.

4.2 Price Changes

- A. Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.
- B. Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.
- C. The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

5 Ordering

5.1 Authorizing Document

- A. The appropriate authorizing document for the Contract will be a properly executed Delivery Order (DO).

5.2 Order Verification

- A. The Contractor agrees to confirm orders placed prior to delivery to ensure orders are correct and that only authorized individuals place orders.

5.3 Quantities

- A. Quantities specified are estimates based on prior purchases. The State is not obligated to purchase any specific quantity.

5.4 Minimum Order

- A. The Contractor’s minimum order is 500 lbs. of minnows.

6 Delivery

6.1 Delivery Programs

- A. The Contractor agrees to provide standard delivery with seven (7) day notice.

6.2 Transportation Method

- A. The Contractor will be utilizing Contractor owned trucks.

6.3 Shipping Terms

- A. State standard contract terms are F.O.B. Destination with transportation charges prepaid on all orders.

7 Acceptance

7.1 Acceptance, Inspection and Testing

A. The State will use the following criteria to determine acceptance of the Contract Activities:

1. Minnows will be HAACP certified, Aquatic Nuisance Species (ANS) free; certified disease free for all viruses including VHSV and Fathead minnow nidovirus, and for Heterosporis; 100% free of contamination with other species or exotics. Documentation to support these criteria will be provided to Wolf Lake State Fish Hatchery annually, except for fish health certification which will be provided with each delivery.
2. By tendering any Deliverable to the State, the Contractor certifies to the State that:
 - i. It has performed reasonable quality assurance activities
 - ii. It has performed any reasonable testing
 - iii. It has corrected all material deficiencies discovered during the quality assurance activities and testing. To the extent that testing occurs at State Locations, the State is entitled to observe and otherwise participate in the testing.
3. Inspection
 - i. The State will examine packages upon delivery noting the quantity of packages delivered and any obvious visible or suspected damage using the shipper's delivery documents and appropriate procedures.
4. The State's review period for acceptance of the Deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify the State's review period, it is by default 30 Days for a Deliverable (State Review Period). The State will notify the Contractor by the end of the State Review Period that either:
 - i. The Deliverable is accepted in the form of delivery by the Contractor.
 - ii. The Deliverable is accepted, but noted deficiencies must be corrected, or
 - iii. The Deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the Deliverable.
5. If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the Deliverable(s) with an explanation that demonstrates all corrections have been made to the original Deliverable(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from the Contractor, the State will have a reasonable additional period, not to exceed 30 days, to accept the corrected Deliverable.
6. The State's obligation to comply with any State Review Period is conditioned on the timely delivery of the Deliverable(s). The State Review Period will begin on the first Business Day following the State's receipt of the Deliverable(s)

7. The State may inspect the Deliverable to confirm that all components have been delivered without material deficiencies. If the State determines that the Deliverable or one of its components has material deficiencies, the State may reject the Deliverable without performing any further inspection or testing.
8. The State will only approve a Deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, in its discretion, conditionally approve a Deliverable that contains material deficiencies if the State elects to permit the Contractor to correct those deficiencies post-approval. The Contractor remains responsible for working diligently to correct, within a reasonable time at the Contractor's expense, all deficiencies in the Deliverable that remain outstanding at the time of State approval.
9. If, after three opportunities the Contractor is unable to correct all deficiencies, the State may:
 - i. demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor;
 - ii. keep the Contract in force and perform, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the Contract price plus an additional amount equal to 10% of the State's cost to cure the deficiency; or
 - iii. fully or partially terminate the Contract for default by giving notice to the Contractor. Notwithstanding the foregoing, the State cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.
10. The State, at any time and in its reasonable discretion, may reject the Deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable.

7.2. Final Acceptance

Unless otherwise stated in the Statement of Work, "Final Acceptance" of a Deliverable occurs when that Deliverable has been accepted by the State following the applicable State Review Period.

8 Invoice and Payment

8.1 Invoice Requirements

A. The Contractor agrees all invoices submitted to the State will include:

1. Date
2. Delivery Order number
3. Quantity
4. Description of the Contract Activities
5. Unit price
6. Total price

8.2 Payment Methods

- A. The State will make payment for Contract Activities by Electronic Funds Transfer (EFT) as described in Standard Contract Terms, Section 16.

9 Project Plan

- A. The Contractor agrees to meet with the Program Manager or designee as needed to review progress and provide necessary guidance to the Contractor in solving problems that arise.
- B. Prior to Contract award, the Contractor agrees to provide to the Contract Administrator proof of insurance as defined in the Standard Contract Terms.

10 Liquidated Damages

- A. Late or improper completion of the Contract Activities will cause loss and damage to the State, and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$500 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

11 Additional Requirements

11.1 Hazardous Chemical Identification

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

SCHEDULE B - PRICING

Department of Natural Resources

Fisheries Division Fathead Minnows for Muskellunge Forage Contract Number 23000000196

1. Price proposed includes shipping F.O.B. Destination to the locations included in this Contract. Price proposed must include all costs including but not limited to any fees, set-up charges, or other potential costs the Contractor may charge the State.
2. The Contractor is not offering quick payment terms.

VENDOR PRICE QUOTE

Price proposed includes shipping F.O.B. Destination to Wolf Lake or Thompson

WOLF LAKE				
	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
1	Fathead Minnows – STRAIGHT RUN	40,000	\$ 5.00	\$200,000.00
2	Fathead Minnows – #2 TUFFY FRY	10,000	\$10.25	\$102,500.00
3	Fathead Minnows – #1 TUFFY	7,500	\$14.75	\$110,625.00
4	MD Golden Shiner	2,500	\$ 8.60	\$ 21,500.00
Total Quote for WOLF LAKE				\$434,625.00
THOMPSON				
	Description	Estimated 5-Year Quantity	Price / Pound*	TOTAL
5	Fathead Minnows – STRAIGHT RUN	60,000	\$ 5.75	\$345,000.00
6	Fathead Minnows – #2 TUFFY FRY	25,000	\$11.00	\$275,000.00
7	Fathead Minnows – #1 TUFFY	15,000	\$15.50	\$232,500.00
8	MD Golden Shiner	2,500	\$ 9.35	\$ 23,375.00
Total Quote for THOMPSON				\$875,875.00
5-YEAR ESTIMATED CONTRACT VALUE				\$1,310,500.00