



STATE OF MICHIGAN PROCUREMENT
 Department of Natural Resources
 525 W Allegan, Lansing MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **250000000093**
 between
 THE STATE OF MICHIGAN
 and

CONTRACTOR	M&S Inc DBA Duluth Nets
	4976 Arnold Road
	Duluth, MN 55803
	Bryan Sederberg
	218-724-5509
	office@duluthnets.com
	CV0050309

STATE	Program Manager	David Caroffino	DNR
		231-350-8654	
		CaroffinoD@michigan.gov	
STATE	Contract Administrator	Melisa Potts	DNR
		517-388-9905	
		PottsM2@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Fisheries sampling nets.			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11/21/2024	11/20/2027	Two 1-Year	11/20/2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		Per Schedule A	
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			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of the State's inquiry bearing the solicitation number 24000003131. Orders for Delivery will be issued directly by the Departments through the issuance of a DO.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$450,465.00

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and M&S Inc DBA Duluth Nets (“**Contractor**”). This Contract is effective on 11/21/024 (“**Effective Date**”), and unless terminated, will expire on 11/20/2027 (the “**Term**”).

This Contract may be renewed for up to 2 additional 1-year period(s). 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 making contact with the State.

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

If to State:	If to Contractor:
<p>See Contract Administrator information shown below.</p>	<p>Bryan Sederberg 4976 Arnold Road Duluth, MN 55803 office@duluthnets.com 218-724-5509</p>

- 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**”):

State:	Contractor:
Melisa Potts 525 W. Allegan Street Lansing, MI 48915 Pottsm2@michigan.gov 517-388-9905	Bryan Sederberg 4976 Arnold Road Duluth, MN 55803 office@duluthnets.com 218-724-5509

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:
David Caroffino 96 Grant Street Charlevoix, MI 49720 Caroffinod@michigan.gov 231-350-8654	Bryan Sederberg 4976 Arnold Road Duluth, MN 55803 office@duluthnets.com 218-724-5509

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. 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.**

- a. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- b. **Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- c. **Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- d. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
 - (1) Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
 - (2) Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract

e. **Proof of Insurance**

- (1) Insurance certificates showing evidence of coverage as required herein must be submitted to the Contract Administrator within 10 days of the contract execution date.
 - (2) Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
 - (3) Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
 - (4) All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
 - (5) The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification or authorization, and audited financial statements.
 - (6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.
- f. **Subcontractors.** Contractor is responsible for ensuring its subcontractors, if any, carry and maintain insurance coverage as applicable to the subcontracted service(s).
- g. **Limits of Coverage & Specific Endorsements.** (See Table 6.1 Below)

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.

- h. **Non-Waiver.** This Section 6 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. Reserved

8. Reserved

- 9. 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.
- 10. 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.
- 11. 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.
- 12. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 13. 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.

14. 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.

15. 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 of its obligations under this Contract.

16. Ordering. Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.

17. 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.

18. 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.

- 19. 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.
- 20. 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.
- 21. 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.

- 22. 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.
- 23. 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.
- 24. 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.

- 25. 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.
- 26. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **90** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) 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.
- 27. 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.
- 28. 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.

- 29. 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.
- 30. 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.
- 31. 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.

- 32. 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.
- 33. Reserved**
- 34. 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.

35. Reserved

36. Reserved

37. Reserved

38. 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.

- 39. 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.
- 40. 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.
- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 42. Reserved**
- 43. Reserved**
- 44. 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.
- 45. Unfair Labor Practice.** Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.

- 46. **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. 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.
- 47. **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.
- 48. **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.
- 49. **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.
- 50. **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.
- 51. **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	Pricing Matrix

- 52. **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.

- 53. 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.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 55. 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.
- 56. 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.

SCHEDULE A – STATEMENT OF WORK

Fisheries Sampling Nets

BACKGROUND

The Michigan Department of Natural Resources is charged with managing fish populations for the benefit of current and future generations. This requires state agency staff to conduct fisheries surveys to assess fish communities in diverse water bodies in support of management decisions that further the goals of the Department. We anticipate the need to purchase numerous fisheries sampling nets in the coming years to replace aging gear and expand our ability to conduct inland lake surveys.

SCOPE

3-year contract to supply fisheries sampling nets for Michigan Department of Natural Resources Fisheries Division.

Requirements

1. General Requirements

1.1. Product Specifications

The Contractor must provide the following:

A. Standard Inland Gill Net (expected order: 20 nets)

Inland gill nets should measure 125 feet long and 6 feet deep. They should consist of five panels, each 25 feet in length and each with a different mesh size. The mesh sizes (stretch mesh) are 1 1/2 inches, 2 inches, 2 1/2 inches, 3 inches, and 4 inches hung on a 1:2 basis. The material used for the net is transparent monofilament mesh (see table for diameters). The upper line is 3/8-inch float line with 100% polypropylene cover and the lower line is 30 weight leadcore line.

Table 1. Monofilament gill netting

Mesh Size	Line Size
1 1/2" stretch	#3 (#69) 0.28 mm diameter
2" stretch	#3 (#69) 0.28 mm diameter
2 1/2" stretch	#3 (#69) 0.28 mm diameter
3" stretch	#4 (#104) 0.33 mm diameter
4" stretch	#4 (#104) 0.33 mm diameter

B. Micromesh Gill Net (expected order: 5 nets)

Micromesh gill nets should measure 100 feet long and 6 feet deep. They should consist of three panels, each 33 feet 4" in length and including a different mesh size. The mesh sizes (stretch) include 1/2" (0.10 mm diameter); 5/8" (0.10 mm diameter); and 3/4" (0.12 mm diameter). The

upper line is 3/8-inch foamcore and the bottom rope is 30 lb leadcore. Side ropes should be 1/8" solid braid nylon. Net should be hung using #9 Twin with tie intervals less than 12".

C. Vertical Gill Net 5 net sizes (expected order: 3 of each type)

Net 1: Combined 3/8 and 1/2" Vertical Gill Net Specification

MATERIAL

- a. Webbing – 3/8" square monofilament nylon gill netting with twine diameter of 0.12mm and 1/2" square monofilament nylon gill netting with twine diameter of 0.15mm .
- b. Rope – 1/8" stiff polyester diamond braid cover, mostly white or yellow in color.
- c. Lead Line – no lead line.
- d. Floats – no floats.
- e. Twine – #12 white nylon seine twine, Nybond, Gold Metal, or equivalent to hang webbing. #6 or #9 white nylon seine twine, Gold Metal or equivalent to sew seams.

NET DESCRIPTION

- a. Dimensions – 6 feet wide, 100 feet deep, with 3 feet of 3/8" webbing and 3 feet of 1/2" webbing vertically joined together. Hung on 1/2 basis in a vertical orientation.

NET CONSTRUCTION

- a. Nets are hung on 1/8" rope with ties 2" apart (or less) using #12 Nybond twine.
- b. Any panels stacked and sewed to maintain the 1/2 hanging basis shall be joined in such a manner as to maintain as even a seam as possible, joined mesh by mesh.
- c. Vertical panels also shall be sewn together in such a manner as to maintain as even a seam as possible.
- d. All twists are to be removed from the rope.
- e. The 1/8" rope is continued around net ends to completely enclose the circumference of net (no loose ends or loops of rope at net ends).
- f. The ends of the net are to be tied to the rope with ties 2" apart (or less) using #12 Nybond twine.

Net 2: Combined 3/4 and 1" Vertical Gill Net Specification

MATERIAL

- a. Webbing – 3/4" square monofilament nylon gill netting with twine diameter of 0.15mm and 1" square monofilament nylon gill netting with twine diameter of between 0.15 and 0.23 mm .
- b. Rope – 1/8" stiff polyester diamond braid cover, mostly white or yellow in color.
- c. Lead Line – no lead line.
- d. Floats – no floats.
- e. Twine – #12 white nylon seine twine, Nybond, Gold Metal, or equivalent to hang webbing. #6 or #9 white nylon seine twine, Gold Metal or equivalent to sew seams.

NET DESCRIPTION

- a. Dimensions –10 feet wide, 100 feet deep, with 5 feet of 3/4” webbing and 5 feet of 1 feet webbing vertically joined together. Hung on 1/2 basis in a vertical orientation.

NET CONSTRUCTION

- a. Nets are hung on 1/8” rope with ties 2” apart (or less) using #12 Nybond twine.
- b. Any panels stacked and sewed to maintain the 1/2 hanging basis shall be joined in such a manner as to maintain as even a seam as possible, joined mesh by mesh.
- c. Vertical panels also shall be sewn together in such a manner as to maintain as even a seam as possible.
- d. All twists are to be removed from the rope.
- e. The 1/8” rope is continued around net ends to completely enclose the circumference of net (no loose ends or loops of rope at net ends).
- f. The ends of the net are to be tied to the rope with ties 2” apart (or less) using #12 Nybond twine.

Net 3: 1-1/4” Vertical Gill Net Specification

MATERIAL

- a. Webbing – 1-1/4” square monofilament nylon gill netting with twine diameter of 0.23mm.
- b. Rope – 1/8” stiff polyester diamond braid cover, mostly white or yellow in color.
- c. Lead Line – no lead line.
- d. Floats – no floats.
- e. Twine – #12 white nylon seine twine, Nybond, Gold Metal, or equivalent to hang webbing. #6 or #9 white nylon seine twine, Gold Metal or equivalent to sew seams.

NET DESCRIPTION

- a. Dimensions –10 feet wide, 100 feet deep, 1-1/4” webbing.
- b. Hung on 1/2 basis in a vertical orientation.

NET CONSTRUCTION

- a. Nets are hung on 1/8” rope with ties 2-1/2” apart (or less) using #12 Nybond twine.
- b. Any panels stacked and sewed to maintain the 1/2 hanging basis shall be joined in such a manner as to maintain as even a seam as possible, joined mesh for mesh.
- c. All twists are to be removed from the rope.
- d. The 1/8” rope is continued around net ends to completely enclose the circumference of net (no loose ends or loops of rope at net ends).
- e. The ends of the net are to be tied to the rope with ties 2” apart (or less) using #12 Nybond twine.

Net 4: 1-1/2” Vertical Gill Net Specification

MATERIAL

- a. Webbing – 1-1/2” square monofilament nylon gill netting with twine diameter of between 0.23 and 0.28 mm.
- b. Rope – 1/8” stiff polyester diamond braid cover, mostly white or yellow in color.
- c. Lead Line – no lead line.
- d. Floats – no floats.

- e. Twine – #12 white nylon seine twine, Nybond, Gold Metal, or equivalent to hang webbing. #6 or #9 white nylon seine twine, Gold Metal or equivalent to sew seams.

NET DESCRIPTION

- a. Dimensions –10 feet wide, 100 feet deep, 1-1/2” webbing.
- b. Hung on 1/2 basis in a vertical orientation.

NET CONSTRUCTION

- a. Nets are hung on 1/8” rope with ties 3” apart (or less) using #12 Nybond twine.
- b. Any panels stacked and sewed to maintain the 1/2 hanging basis shall be joined in such a manner as to maintain as even a seam as possible, with joined mesh for mesh.
- c. All twists are to be removed from the rope.
- d. The 1/8” rope is continued around net ends to completely enclose the circumference of net (no loose ends or loops of rope at net ends).
- e. The ends of the net are to be tied to the rope with ties 2” apart (or less) using #12 Nybond twine.

Net 5: 1-3/4” Vertical Gill Net Specifications

MATERIAL

- a. Webbing – 1-3/4” square monofilament nylon gill netting with twine diameter of 0.28mm.
- b. Rope – 1/8” stiff polyester diamond braid cover , mostly white or yellow in color.
- c. Lead Line – no lead line.
- d. Floats – no floats.
- e. Twine – #12 white nylon seine twine, Nybond, Gold Metal, or equivalent to hang webbing. #6 or #9 white nylon seine twine, Gold Metal or equivalent to sew seams.

NET DESCRIPTION

- a. Dimensions –10 feet wide, 100 feet deep, 1-3/4” webbing.
- b. Hung on 1/2 basis in a vertical orientation.

NET CONSTRUCTION

- a. Nets are hung on 1/8” rope with ties 3-1/2” apart (or less) using #12 Nybond twine.
- b. Any panels stacked and sewed to maintain the 1/2 hanging basis shall be joined in such a manner as to maintain as even a seam as possible, joined mesh for mesh.
- c. All twists are to be removed from the rope.
- d. The 1/8” rope is continued around net ends to completely enclose the circumference of net (no loose ends or loops of rope at net ends).
- e. The ends of the net are to be tied to the rope with ties 2” apart (or less) using #12 Nybond twine.

D. Large Mesh Fyke Net (expected order: 50 nets)

The Status and Trends Large Mesh Fyke Net is made up of 3 hoop and 2 rectangle frames supporting mesh along with a 100 feet x 4 feet lead (Figure 2). The hoops for this net measure 3 feet in diameter and the rectangles measure 6 feet x 4 feet. The hoop and rectangle frames support 1 1/2" stretch knotted nylon mesh. The lead is 1 1/2" stretch knotted nylon mesh. The

two throats of the net are a 7" x 7" square rope bail set diagonally. The lead is floated with foam floats (FL-130, white) and weighted with #50 pound lead line. The whole net is treated with water-based green UV inhibitor net treatment.

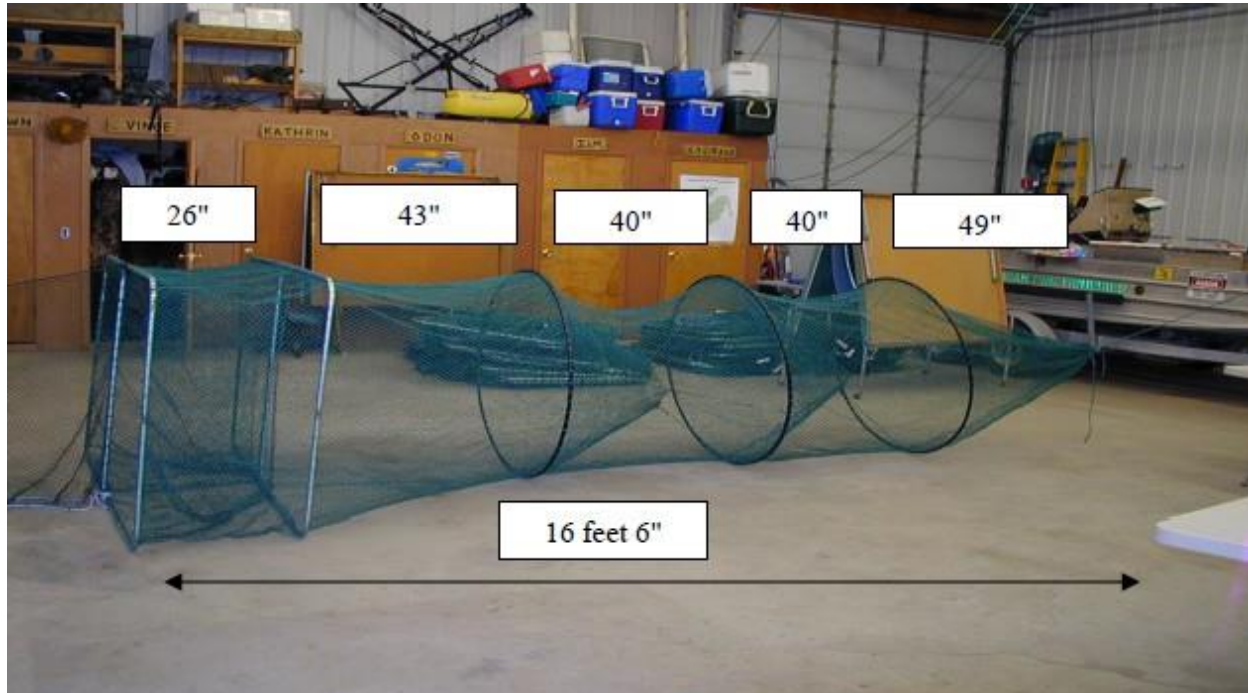


Figure 1. Large mesh fyke net with approximate spacing and total net length.

Specific details include:

- a. The total net length is 16 feet - 6 inches; refer to Figure 1 for general frame spacing.
- b. Frame: 48" high x 72" wide. Two frames made of 1/2" diameter welded conduit. Both frames will have a vertical center brace welded into place.
- c. Netting: 3/4 feet square (1 1/2" stretch) #15 knotted nylon netting.
- d. Hoops: 3 hoops, each 48" in diameter made of fiberglass (1/2" x 1/2" thickness), painted (green) to prevent splintering.
- e. Lead: 4 1/2 feet high x 100 feet long attached to the center of the front frame. Netting will be 3/4" square #15 knotted nylon stitched to a 5/16" twisted polypropylene rope with white FL-130 floats spaced every 24" on top and #50 pound lead line on bottom. The last meshes of the lead will be tied so that they occur at the top and bottom of the frame, making sure they span the height of the frame.
- f. Frame and Hoop Ropes: All netting will have a 1/8" solid braid nylon (SBN) rope running through it where it will attach to the hoops and frames. The netting and the rope will be "tied in" to the hoops and frames using a minimum of a double half hitch knot.
- g. Wings: No wings.
- h. Winkers: Each net to have two side winkers and one center winker, with 9" vertical slit openings. Winkers to be woven into the body of the net on all edges with 1/8" SBN rope and securely tied at the corners.

- i. Throat: Two throats. The 1st throat located on the first hoop tied to the 2nd hoop with 1/8" SBN rope. The throat opening on the 1st hoop to be made of 1/8" SBN rope in the shape of a diamond 9" x 9" square with loops at the corners, tied at 3, 6, 9, and 12 o'clock with 1/8" SBN rope. The 2nd throat is located on the 2nd hoop tied to the 3rd hoop. Second throat to be constructed the same as the first except the opening is to be 7" x 7".
- j. Cinch String: About 5" from cod end, a cinch string of 1/4" SBN rope will be attached so that the cod end can be cinched closed. This rope is 36" in total length.
- k. Cod End: Cod end will be finished with a 1/4" SBN rope which will act as a drawstring to close the cod end. This rope is 20 feet (10 feet from cod end to ring) in total length. A 6" diameter (1/4" diameter metal) ring will be placed at the end of the cod end rope to provide an attachment point for the deployment of the net.
- l. Twine: Number 18 twine will be used throughout the net.
- m. Tie Spacing: Tie spacing on the hoops and frames will be no further than 2" apart. Tie spacing on the corners of the frames will be no more than 1" apart. Tie spacing on the leads will be no further than 8" apart.
- n. Treatment: Nets and leads to be treated with water-based green UV inhibitor net treatment.

E. Small Mesh Fyke Net (expected order: 20 nets)

Small Mesh Fyke Nets should be made of two hoops and two rectangles supporting mesh with one funnel and has a 50 feet x 4 feet lead attached (Figure 1). The rectangles for this net measure 42" high x 72" wide and are made of 1/2" diameter conduit. The hoops measure 36" in diameter (1/2" x 1/2" fiberglass thickness), and the throat opening is 5" x 5" rope bail set diagonally. The net and lead are constructed with 3/16" square #105 knotless nylon netting. On the rectangle frame where the lead attaches there is a 3" stretch mesh to exclude turtles and muskrats. The whole net should be treated with water-based green UV inhibitor net treatment.

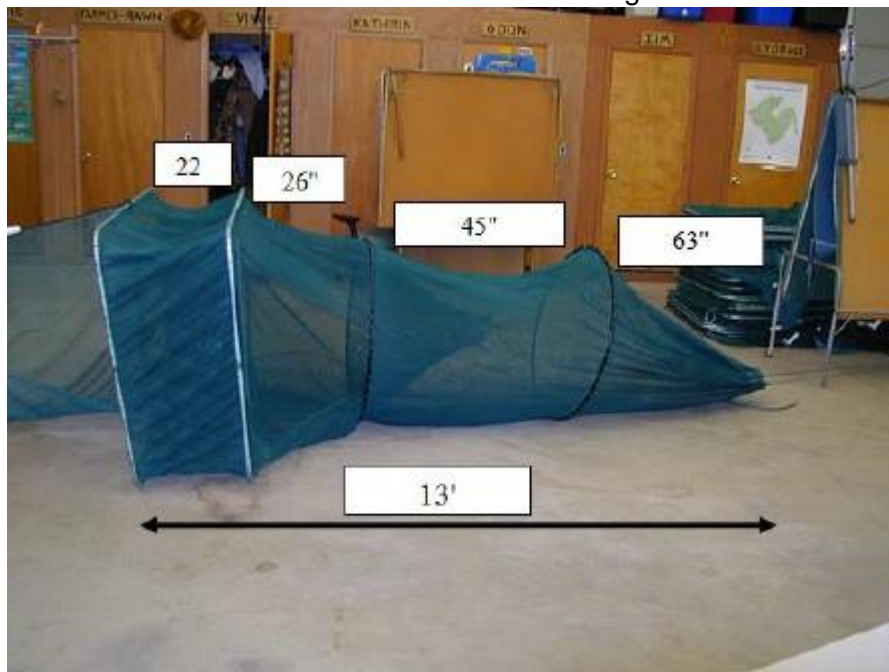


Figure 2. Small mesh fyke net with spacing and total length.

Specific Small Mesh Fyke Net details include:

- a. Total net length is 13 feet; refer to Figure 1 for general frame spacing.
- b. Frame: 42" high x 72" wide. Two frames made of 1/2" diameter welded conduit. Both frames will have a vertical center brace welded into place.
- c. Netting: 3/16" square #105 nylon netting.
- d. Hoops: Constructed of fiberglass, 2 hoops, each 36" in diameter (1/2" x 1/2" thickness) made of fiberglass, painted (green) to prevent splintering.
- e. Lead: 4 feet high x 50 feet long attached to the center of the front frame. Netting will be 3/16" square #105 knotless netting stitched to a 5/16" twisted poly rope with white FL-130 floats spaced every 24" on top and #50-pound lead line on bottom. The last meshes of the lead will be tied so that they occur at the top and bottom of the frame, making sure they span the height of the frame.
- f. Frame and Hoop Ropes: All netting will have a surge seam running through it where it will attach to the hoops and frames. The netting will be tied to the hoops and frames using a minimum of a double half hitch knot.
- g. Wings: No wings.
- h. Winkers: Each net to have two side winkers and one center winker, with 5" vertical slit openings. Winkers to be surged into the body of the net.
- i. Throat: One throat. The throat is located on the first hoop tied to the 2nd hoop with 1/8" diameter solid braid nylon (SBN) rope. The throat opening on the 1st hoop to be made of 1/8" SBN rope in the shape of a square 5"x 5" with loops at the corners, tied at 2, 5, 8, and 11 o'clock with 1/8" solid braid nylon rope.
- j. Cinch String: About 5" from Cod end, a cinch string of 1/4" SBN rope will be attached so that the cod end can be cinched closed.
- k. Cod End: Cod end will be finished with a sleeve in which a 20 feet (10 feet from cod end to ring), 1/4" SBN rope will act as a drawstring to close the cod end. A 2" ring (1/4" diameter metal) will be placed at the end of the Cod End rope to provide an attachment point for the deployment of the net.
- l. Twine: Number 18 twine will be used throughout the net.
- m. Tie Spacing: Tie spacing on the hoops and frames will be no further than 2" apart. Tie spacing on the corners of the frames will be no more than 1" apart. Tie spacing on the leads will be no further than 8" apart.
- n. Treatment: Nets and leads to be treated with water-based green UV inhibitor net treatment.

F. Walleye Pond Fyke Net (expected order: 10-20 nets)

Nets should include frames that are 48" high and 48" long, with frames made of 3/4" EMT conduit. Both frames should be plugged, welded, and center braced. Netting will be 1/8" square delta style netting, dyed green with UV Netcoat Treatment. A turtle guard will be installed, measuring 1 1/2" square #21 black knotted nylon, on the square. Vertical trapping between frames set to 4" off center (winker openings). Two 48" straight (no taper) fiberglass hoops. One

4" x 4" square: 1/8" solid braid nylon rope with small loops in the corners, tied off to 2nd hoop. Cinch string: 2 feet long, 1/8" braid nylon sewn around the edge with 1" loops every 8" apart allowing for cinch string with ring. Lead will be 50 feet long and 4 feet high, made from 1/8" square delta style netting – green with UV Netcoat Treatment. Top rope of lead will be 5/16" Braided poly with Black FL-130s every 24". Bottom rope of lead will be 50 lb leadcore.

G. Mini-Fyke Net (expected order: 10-15 nets)

Nets should include frames that are 48" high and 72" long, with frames made of 1/2" EMT conduit. Both frames should be plugged, welded, and center braced. Netting will be 1/8" square delta style netting, dyed green with UV Netcoat Treatment. A turtle guard will be installed, measuring 1 1/2" square #21 black knotted nylon, on the square. Vertical trapping between frames set to 4" off center (winker openings). Two 48" straight (no taper) fiberglass hoops. One 4" x 4" square: 1/8" solid braid nylon rope with small loops in the corners, tied off to 2nd hoop. Cinch string: 2 feet long, 1/8" braid nylon sewn around the edge with 1" loops every 8" apart allowing for cinch string with ring. Lead will be 25 feet long and 4 feet high, made from 1/8" square delta style netting – green with UV Netcoat Treatment. Top rope of lead will be 5/16" Braided poly with Black FL-130s every 24". Bottom rope of lead will be 50 lb leadcore. Net should be tied with #15 twine

H. Inland Trap Net (expected order: 20 nets)

General description (*Note: #12 nylon twine is used throughout the entire trap net*):

- a. Net Body Frame: The net frame is made of 5/16" twisted polypropylene rope except for the center rope which is 3/8" twisted polypropylene rope and the pot vertical ends which are 5/16" hollow braid polypropylene ropes. All rope intersections are reinforced with #12 nylon twine. There are 34 (#200) plastic floats on the top ropes for the heart and wings and 5 (#250) plastic floats on the top center line, two of which are in the pot. The bottom line of the heart and wings have 76 (2 oz.) lead weights spaced throughout except the bottom center line which has 10 (2 oz.) lead weights, 2 of which are in the pot.
- b. Funnel: The funnel is made of 1 1/2" stretch #15 knotted nylon netting. The funnel is 33" long and tapers from a 36" square opening at the heart to a 7" opening into the pot. A 3/4" x 7" cedar brail is attached to the top and bottom of the 7" opening. Funnel supporting ropes (1/4" braided nylon) attach to the net frame.
- c. Pot: The pot is 8 feet long by 5 feet wide by 3 feet tall and is made of 1 1/2" stretch #15 knotted nylon netting. Cedar brails, 2" square by 62", are attached width-wise to the top line on both ends of the pot. A 5/8" by 62" solid steel bar with 1/4" steel eyelets welded to each end is attached to the bottom line at each end of the pot. An anchoring bridle, 9 feet long, composed of 5/16" twisted polypropylene rope extending from the back of the pot is looped through a 3" steel ring. The rope is whipped with #12 nylon twine securing the rope to the ring. Access points are located 3 feet back of the front pot on both right and left sides. Access points may be of lace or zipper style.
- d. Heart and Inner Wing: The heart and inner wings are made of 2" stretch #15 knotted nylon netting. Both are 3 feet tall at the pot and gradually increase to 6 feet tall at the entrance where the lead attaches. The first entrance into the heart is 24" wide and is framed on each side by a vertical piece of 1/8" rope. The second opening into the center

of the heart and inner wings is 12" wide and is framed on both sides by a vertical piece of 1/8" rope. There are 2 inner wings. Vertical panels are hung diagonally into the center of the heart to form the inner wings. An access point is available on the top of the narrow end which may be of lace or zipper style. There is also an option to leave a permanent opening on the bottom of the narrow end (vee) to facilitate ease of removing fish captured in the wing.

- e. Outer Wings: The two outer wings consist of a top and sides made from 2" stretch #15 nylon netting. There is no bottom to these wings. Both wings begin at the outer edge of the heart and extend, in a triangular shape, diagonally away from the heart. An anchor bridle, made from 5/16" twisted polypropylene rope, extends from the outer end of each wing (Figure 13). The bridle extends 8 feet from the bottom end of the wing and 10 feet from the top end. A loop is formed by whipping the two ropes together. A 3 feet long piece of 3/16" nylon diamond braid rope is tied to the loop with a bowline knot so the tag end can be used to attach an anchor.
- f. Bridle Assembly: A pot anchoring bridle, 9 feet long, composed of 5/16" twisted polypropylene rope extending from the back of the pot is looped through a 3" steel ring. The rope is whipped with #12 nylon twine securing the rope to the ring. An anchor bridle, made from 5/16" twisted polypropylene rope, extends from the outer end of each wing. The bridle extends 8 feet from the bottom end of the wing and 10 feet from the top end. A loop is formed by whipping the two ropes together. A 3 feet long piece of 3/16" nylon diamond braid rope is tied to the loop with a bowline knot so the tag end can be used to attach an anchor.
- g. Access Points: There are 4 points to access fish in the net – 2 on the top pot and 1 for each inner wing. Access points may be of different style (lace or zipper).
- h. Lead: Trap net leads are 6 feet tall and will be ordered in either 100 or 150 feet in length. The body is composed of 2" stretch knotless #252 nylon netting (optional knotted #15 netting). The float line is 5/16" twisted polypropylene rope. The lead line is 9/32" diameter 50 lb. lead core rope. Plastic floats (#200) are spaced every 4 feet on the float line. The nylon mesh is attached to the float and lead core line using #12 nylon twine tied with cinch knots every 8 inches. A total of 6 mesh squares are sewn between knots assuring top and bottom are consistent. Vertical ends are supported with 1/4" diameter braided nylon rope which attaches to the float and lead lines. An additional 12 inches of float and lead line is allowed for the net securing bridle. An additional 24 inches of float and lead line is allowed for the anchor securing bridle. The entire lead is dyed black with mariner dye.

The entire net is dyed black with mariner dye.

I. Seine (expected order: 5 nets)

Saines should be a straight seine 5 feet tall and 25 feet long with 3/16" delta mesh. The color of the seine is untreated white.

J. Custom Nets (expected order: to be determined)

Other nets may be needed, either specific customizations of the specifications above, or other unique designs dependent upon agency needs.

All nets must meet the specifications listed above.

1.2. Warranties

Describe any warranties included in the bid – add additional rows as needed. Explain the process for reporting warranty issues and how the Contractor will handle any repairs or replacements.

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

Bidder must provide detailed information requested below:

Describe any warranties included in the bid (if none, write N/A): Warranty against manufacturer defect
Provide the length of the warranty: Warranty period is 30 days from delivery.
Explain the process for reporting warranty issues: Contact Bryan at 218-724-5509 or office@duluthnets.com
Explain how any repairs or replacements are made, including timing, etc.: Dependent on repair needed.
Provide the name, address, contact name, phone number and email address of the party responsible for the warranty: Warranty provided by Duluth Nets

1.3. Transition

Invoices must be sent withing 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

Delivery will be expected within 60 calendar days, or by mutual agreed upon deadline from date of order 8a.m. and 4:30 p.m. Delivery will be made to the location the order originated from.

3. Staffing

3.1. Contractor Representative

The Contractor must 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 must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

3.2. Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

- The legal business name; address; telephone number; a description of subcontractor’s organization and the services it will provide; and information concerning subcontractor’s ability to provide the Contract Activities.

- The relationship of the subcontractor to the Contractor. Of the total bid, the price of the subcontractor's work. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

4. Pricing

4.1. Price Term

Pricing is firm for the entire length of the Contract.

4.2. Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

5. Ordering

5.1. Authorizing Document

The appropriate authorizing document for the Contract will be a Delivery Order.

6. Delivery

6.1. Delivery Programs

The Contractor must explain in detail its delivery programs (e.g., standard delivery and quick-ship), including any limitations such as quantity.

The Contractor must explain the transportation method (e.g., UPS, FedEx, Contractor fleet, or other third-party carrier) it intends on utilizing in delivery of the Contract Activities.

FedEx Ltl Priority

6.2. Packaging and Palletizing

Packaging must be optimized to permit the lowest freight rate. Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets.

7. Acceptance

7.1. Final 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.

8. Invoice and Payment

8.1. Invoice Requirements

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); (g) vendor-generated invoice number and (h) total price.

8.2. Payment Methods

The State will make payment for Contract Activities via EFT.

9. Licensing Agreement

The Contractor must provide a copy of any applicable licensing agreement.

10. Service-Level Agreements (SLAs)

Service Level Agreements for this Contract will be as follows:

SLA Metric 1. Timely Deliveries	
Definition and Purpose	<p>All orders must be delivered within 60 calendar days of receipt of order or reasonable delivery terms will be conveyed based on availability of supply.</p> <p>The Contractor must ensure that items and quantities delivered are exactly the items, brands, and quantities on the Order Confirmation. No substitutions will be allowed without prior written permission by Program Manager and a Change Notice executed by the Contract Administrator.</p>
Acceptable Standard	<ol style="list-style-type: none"> 1. All deliveries must occur in accordance with the approved delivery schedule for each Facility and Facility Receiving hours. 2. Extenuating circumstances must be communicated by the Contractor to the Program Manager prior to the scheduled delivery date and time. 3. Items, brands, and quantities delivered will match the Order Confirmation exactly.

SLA Metric 1. Timely Deliveries	
	<p>4. Signed and dated packing slips will be provided to Department of Natural Resources at the time of delivery.</p> <p>5. The entire order must be delivered on the same day unless a partial delivery has been approved in advance by the Program Manager.</p> <p>6. Orders not received in their entirety, as determined by a review of the Data Sources, will be considered inaccurate.</p> <p>The acceptable standard is 100% compliance.</p>
Credit Due for Failing to Meet the Service Level Agreements	<p>1. \$100.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</p> <p>2. \$500.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</p> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the state will be completed within 10 days of notice of assessment.</p>

11. Additional Requirements

11.1. Environmental and Energy Efficiency Product Standards

The Contractor must identify any energy efficient, bio-based, or otherwise environmentally friendly products used in the products. Contractor must include any relevant third-party certification, including the verification of a United States Department of Agriculture certified bio-based product label. Contractor must describe how products that meet these requirements are identified or otherwise labelled.

11.2. Hazardous Chemical Identification

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.

11.3. Mercury Content

Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor must explain if it intends to provide products containing mercury, the amount or concentration of mercury, and whether cost competitive alternatives exist. If a cost competitive alternative does exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.

11.4. Brominated Flame Retardants

The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs. Contractor must describe how products that meet these requirements are identified or otherwise labelled.

11.5. Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)

The Contractor must confirm that the provided products do not intentionally contain PFAS. This consists of all components of the provided products, including product packaging.

M. & S., Inc. dba Duluth Nets

SCHEDULE B – PRICING

Fisheries Sampling Nets

- Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).

Item	Price Per Item*	Estimated Annual Quantity	Total Cost
A. Standard Inland Gill Net	\$346.00	8	\$2,768.00
B. Micromesh Gill Net	\$872.00	2	\$1,744.00
C. Vertical Gill Net - Net 1: Combined 3/8 and 1/2"	\$1,849.00	1	\$1,849.00
C. Vertical Gill Net - Net 2: Combined 3/4 and 1"	\$1,410.00	1	\$1,410.00
C. Vertical Gill Net - Net 3: 1-1/4"	\$769.00	1	\$769.00
C. Vertical Gill Net - Net 4: 1-1/2"	\$748.00	1	\$748.00
C. Vertical Gill Net - Net 5: 1-3/4"	\$736.00	1	\$736.00
D. Large Mesh Fyke Net	\$2,005.00	20	\$40,100.00
E. Small Mesh Fyke Net	\$1,963.00	6	\$11,778.00
F. Walleye Pond Fyke Net	\$1,818.00	6	\$10,908.00
G. Mini-Fyke Net	\$1,617.00	5	\$8,085.00
H. Inland Trap Net	\$8,600.00	8	\$68,800.00
I. Seine	\$230.00	2	\$460.00
Total Estimated Annual Cost			\$150,155.00
Total Estimated Contract Value (Annual Cost x 3 years)			\$450,465.00

*Price per net should include all associated shipping/delivery.