



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Stabenow Building, Third Floor
Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **250000001341**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Aquamoon, LLC
	5210Kearsdale Road
	Toledo, OH 43623
	Keith Wernert
	419-902-0774
	kwernert@aquamoon.com
	VS0352515

STATE	Program Manager	Melissa Sharp	DNR
		313-396-6873	
	SharpM7@michigan.gov		
	Contract Administrator	Lisa Crozier-Green	DNR
517-388-6626			
CrozierGreenL@michigan.gov			

CONTRACT SUMMARY			
DESCRIPTION: DNR Outdoor Adventure Center Aquarium Cleaning			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 2, 2025	August 31, 2028	TWO 1-Year Options to Renew	August 31, 2028
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/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 250000002778. Orders for Delivery will be issued directly by the Departments through the issuance of a Delivery Order (DO).			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$192,400.00

FOR THE CONTRACTOR:

Aquamoon, LLC

Company Name

E-SIGNED by Keith Wernert
on 2025-08-27 14:43:16 EDT

Authorized Agent Signature

Keith D. Wernert

Authorized Agent (Print or Type)

2025-08-27 14:43:16

Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2025-08-27 14:56:28 EDT

Signature

Laura L. Gyorkos, Procurement Section Manager

Name & Title

Department of Natural Resources

Agency

2025-08-27 14:56:28

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Aquamoon, LLC (“**Contractor**”), an Illinois limited liability corporation. This Contract is effective on August September 2, 2025 (“**Effective Date**”), and unless terminated, will expire on August 31, 2028 (the “**Term**”).

This Contract may be renewed for up to TWO (2) – 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:

- 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.

- 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:
Lisa Crozier-Green 525 West Allegan, Stabenow Building, 3 rd Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	Keith D Wernert 5210 Kearsdale Rd Toledo, OH 43623 kwernert@aquamoon.com 419-902-0774

- 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:
Lisa Crozier-Green 525 West Allegan, Stabenow Building, 3 rd Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	Keith D Wernert 5210 Kearsdale Rd Toledo, OH 43623 kwernert@aquamoon.com 419-902-0774

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:
t/b/d	Keith D Wernert 5210 Kearsdale Rd Toledo, OH 43623 kwernert@aquamoon.com 419-902-0774

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.
Umbrella or Excess Liability Insurance	
Minimum Limits: \$5,000,000 General Aggregate	Contractor must have their policy follow form.
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	

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. 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 of its obligations under this Contract.

14. **Ordering.** Contractor 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 31, 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. 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 federal excise tax, state, and local sales taxes, and use taxes if the Contract Activities purchased under this Contract are for the State's exclusive use. Contractor will not include the collection of taxes for which the State is exempt in any invoices or payments related to this Contract. The State is not responsible for taxes imposed or assessed on Contractor.

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.

- 17. 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.
- 18. 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.
- 19. 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.
- 20. 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 33, 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.

- 21. 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.
- 22. 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.
- 23. 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.

- 24. 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.
- 25. 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.
- 26. 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.
- 27. 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.

28. 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.

- 29. 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 31, Termination for Cause.
- 30. 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.
- 31. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 32. Prevailing Wage Act Statutory Provision.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract. As required by MCL 408.1112, if the Michigan Prevailing Wage Act, MCL 408.1101 et seq. applies to this Contract, construction mechanics (as defined in MCL 408.1101 (b)) are intended beneficiaries of the contractual prevailing wage, fringe benefit, and nondiscrimination nonretaliation requirements of the Contract. Any construction mechanic aggrieved by the failure of a Contractor or subcontractor to pay prevailing wages or benefits as specified in this Contract, or by a violation of MCL 408.1107, in addition to any other remedies provided in Public Act 10 of 2023 or by law, may bring an action in a court of competent jurisdiction against the Contractor or subcontractor for damages or injunctive relief and may be awarded reinstatement or other appropriate relief, and all damages sustained, together with actual costs and attorney fees at trial and on appeal. If the Michigan Prevailing Wage Act, MCL 408.1101 et seq. applies to this Contract, the rates of wages and fringe benefits to be paid to each class of construction mechanic (as defined in MCL 408.1101 (b)) by Contractor and subcontractors must not be less than the wage and fringe benefit rates prevailing in the locality in which the work is performed.
- 33. 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, sexual orientation, gender identity or expression, 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 Section is a material breach of this Contract.

- 34. 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.
- 35. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles. 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.
- 36. 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.
- 37. 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.
- 38. 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.
- 39. 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.
- 40. 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

- 41. 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.

- 42. 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.
- 43. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 44. 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.
- 45. 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

Department of Natural Resources
Parks and Recreation Division
Outdoor Adventure Center – Aquarium Cleaning
Contract No. 250000001341

SCOPE

The DNR Outdoor Adventure Center (OAC) located at 1801 Atwater Street, Detroit, MI 48207 is entering into this multiyear Contract to provide Aquarium Cleaning and Maintenance service for a 1,200-gallon (approx..) aquarium tank which houses Two (2) Bullhead Catfish, Three (3) Largemouth Bass, and Two (2) Longnose Gar.

This is a THREE (3) Year Contract with TWO (2) Options to Renew, for a total FIVE (5) Year Contract.

Requirements

Aquarium service at the DNR Outdoor Adventure Center by a qualified aquarium maintenance company to maintain and service the public freshwater aquarium to the highest quality available.

1. Aquarium Service

- A. The OAC's 1,200 (approx.) freshwater aquarium requires weekly and monthly service to maintain aquarium cleanliness and careful attention to fish and the environment.
- B. The OAC will provide access to all utilities, i.e., water, power, drainage.
- C. The Contractor agrees to provide all personnel, equipment, tools, materials, aquarium cleaning and water quality chemicals, supervision, and other items and / or services necessary to perform the Contract Activities as described.
- D. Service can be provided between the hours of 6:30 a.m. and 4:30 p.m. daily.
 1. The building is closed to visitors on Mondays.
 2. Public hours begin at 9:30 a.m. Tuesday – Sunday
- E. The Contractor agrees to maintain freshwater aquarium (approx. 1,200 gallons) which currently houses 2 Bullhead catfish, 3 Largemouth Bass, and 2 Longnose Gar.
- F. The Contractor agrees to provide regular custodial, husbandry and system management services.
- G. **Weekly Routine Cleaning & Care:**
 1. Clean interior and exterior glass / panels
 2. Gravel stirring and vacuuming substrate / gravel
 3. Remove algae (manual and / or chemical methods, as required)
 4. Clean decorations and artificial plants
 5. Systematic brushing and cleaning of at least 25% of the aquarium each week to remove algae and ensure the entire tank is thoroughly cleaned each month
- H. **Water Quality Management**
 1. Test water parameters, i.e., pH, ammonia, nitrites, nitrates, hardness, salinity, if applicable
 2. Perform water changes – minimum of 10% - 25% per service.
 3. Maintain filtration systems – clean media, check for proper operation
 4. Monitor heaters, pumps and lighting systems
- I. **Aquarium Health Monitoring**
 1. Visual health inspection of fish and aquatic life
- J. **Equipment Inspection**
 1. Routine check of all equipment – filters, air pumps, lights, heaters.
 2. Report and recommend repair / replacement if required

K. Emergency Services

1. Respond to emergency service requests within 24 hours.
2. Requests may be regarding dealing with animal health, filtration, appearance, or any other circumstance that compromises or is perceived to compromise, the well-being of the aquarium system. Please quote emergency services at a per-hour rate.

L. Service Log

1. After every visit, the Contractor agrees to update the service log by signing and noting the service provided, date, time and technician

M. Monthly Service

1. In-depth equipment checks including
 - a. Deep cleaning filters
 - b. Inspection of lights
 - c. Inspection of fish and aquatic plants

N. Annual Service

1. Every September
 - a. The OAC is closed to the public every September for building maintenance and deep cleaning. The Contractor agrees to perform annual cleaning and maintenance during the OAC September shut-down period.

O. Chemicals & Supplies

1. The Contractor agrees to provide all chemicals, water conditioners, medications and cleaning supplies
2. All chemicals must comply with safety regulations and be safe for fish and for use in public spaces.

P. Equipment

1. The Contractor agrees to provide their own equipment which includes, but is not limited to:
 - a. Gravel vacuums
 - b. Algae scrapers
 - c. Buckets
 - d. Siphon systems
 - e. Water testing kits
 - f. Specialized cleaning tools

1.1. Warranties

- A. The State reserves the right to request warranties as appropriate.

1.2. Quality Assurance Program

- A. The Contractor agrees to update and maintain the service log at each site visit.
- B. The Contractor agrees to supervise assigned staff to ensure tasks are completed timely and correctly.

1.3. Incentives

- A. The Contractor is not offering quick payment terms.

1.4. Contract Transition

- A. The Contractor agrees invoices will be sent within 45 days after expiration of contract.
- B. Any invoices received after 45 days will result in a non-payment of invoice.

2. Staffing

2.1 Contractor Program Manager

- A. The Contractor agrees to appoint one (1) individual, specifically assigned to any resulting Contract who will be available to receive calls for service prior to 7:00 a.m. Monday – Friday, respond to notice of unacceptable conditions within four (4) business hours and respond to State inquiries regarding the Contract Activities.

- B. The Contractor agrees to notify the Contract Administrator at least ten (10) calendar days before removing or assigning a new Contractor Representative. The Contract Administrator will draft a Change Notice for signature by the Contractor.
- C. The Contractor must identify the Contractor Representative, indicate where they will be physically located, provide contact information and describe the functions they will perform.

Contractor Representative:	Keith D Wernert
Address:	5210 Kearsdale Rd
Telephone:	419-902-0774
Email:	kwernert@aquamoon.com
Days / Times Available:	Weekdays, 9am-5pm
Function:	East Regional Manager

2.2 Disclosure of Subcontractors

- A. The Contractor does not intend to utilize subcontractors.
- B. In the event the Contractor requires the services of a subcontractor, the Contractor agrees to remain responsible for the management of any subcontractors utilized for the performance of Contract Activities. Subcontractors will be bound to the Contractor by the terms of any resulting Contract.
- C. The State reserves the right to review and approve any subcontractor or require replacement of unacceptable subcontractors. The State’s written approval of any subcontractor does not relieve the Contractor of any obligation or performance required under any resulting Contract.
- D. Any change in subcontractor(s) should be pre-approved, in writing (email is acceptable) by the Program Manager, with notice to the Contract Administrator.
- E. The State will direct payments for Contract Activities only to the Contractor. The State will not direct payment to a subcontractor.
- F. If the Contractor intends to utilize a subcontractor for any portion of the Contract Activities including accumulated snow removal, the Contractor agrees to provide the following:

Subcontractor:	
Business Name:	
Address:	
Telephone:	
Email:	
Description of organization:	
Services provided:	
Detail on Subcontractor’s ability to provide Contract Activities:	
Previous working relationship with Contractor:	
Description of Contract Activities to be performed:	

2.3 Security

- A. All persons assigned by the Contractor to the performance of the Contract Activities shall be employees of the Contractor or a named subcontractor (employees) and must be fully qualified to perform the work assigned
- B. The Contractor agrees all staff performing Contract Activities on State property will be readily identifiable as Contractor employees by wearing uniforms. The State may require the Contractor’s personnel to wear State issued ID badges.
- C. The Contractor agrees to ensure the security of State facilities by performing background checks and drug screening on employees.

3. Pricing

A. Price Term

1. Pricing is firm for the entire length of the Contract.

4. Ordering

A. Authorizing Document

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

5. Acceptance

A. Acceptance, Inspection and Testing

1. The Program Manager or designee will be monitoring work during the entire process.
2. Only the Program Manager or designee is authorized to determine whether the Contract Activities are accepted.
3. The Contractor agrees to notify the Program Manager within 24 hours of work completion to schedule final inspection.
4. Upon Contractor's notification that work is complete, the Program Manager or designee will inspect the completed area to determine whether work has been successfully completed.
5. All equipment, material and miscellaneous supplies brought to the project area(s) as part of the operation shall be removed.

6. Invoice and Payment

A. Invoice Requirements

1. Invoices may be submitted to the Program Manager or designee at the completion of all work and after successful inspection and acceptance.
2. All invoices must be submitted to DNR no later than September 20, 2025, to ensure payment prior to the end of the State's fiscal year.
3. Payment terms are Net 45 Days After Receipt of Invoice unless quick payment discount is offered.
4. Invoices must reflect the actual work completed, with quantities and the number of acres worked.
5. Invoices must include the following:
 - a. Delivery Order Number / Document ID Number (25000000 _____)
 - b. Date
 - c. Description of Contract Activities (Location, work completed, quantities of fertilizer/seed, and the actual number of acres worked.
 - d. Contractors must submit receipts for fertilizer & seed supplies with the invoice. Invoices which are not accompanied by receipts will be held until receipts are provided.
 - e. Price
 - f. Quick Payment Terms or Discount

B. Payment Methods

1. The State will make payment for Contract Activities by Electronic Funds Transfer (EFT) only.

7. 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 the Contractor fails to remedy the late or improper completion of the contract activities.

SCHEDULE B - PRICING

Department of Natural Resources
Parks and Recreation Division
Outdoor Adventure Center – Aquarium Cleaning
Contract No. 250000001341

1. The Contractor is not offering quick payment terms.

Aquarium Service	Price / Service	Total Services	Total
Weekly aquarium service, per Schedule A	\$740.00	40	\$29,600.00
Monthly aquarium service, per Schedule A	\$740.00	12	\$8880.00
Total per Year			\$38,480.00
Contract Total			\$192,400.00

Price per hour for any required emergency services: \$110.00