



STATE OF MICHIGAN PROCUREMENT
Department of Technology, Management, and Budget
525 W. Allegan, Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 210000001075
between
THE STATE OF MICHIGAN
and

CONTRACTOR	The Sanborn Map Company, Inc.
	1935 Jamboree Drive, Suite 100
	Colorado Springs, CO 80920
	Brad Arshat
	(443) 603-7725
	barshat@sanborn.com
	V Cust#

STATE	Program Manager	Everett Root	DTMB
		517-335-7180	
		roote@michigan.gov	
	Contract Administrator	Sean Regan	DTMB
		517-243-8459	
		regans@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Oblique Imagery			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
6/1/2021	5/31/2024	5, 1 Year	
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card	<input type="checkbox"/> Payment Request (PRC)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
MISCELLANEOUS INFORMATION			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$0.00

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name & Title

Agency

Date

STATE OF MICHIGAN

CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and [Insert Company Name] ("**Contractor**"), a [Insert State & Entity Status, e.g., a Michigan corporation or a Texas limited liability company]. This Contract is effective on [Month, Day, Year] ("**Effective Date**"), and unless terminated, expires on [Month, Day, Year].

This Contract may be renewed for up to [Insert # of Renewal Options] additional [Insert # of Years Per Renewal Option] 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.]

1. Definitions. For the purposes of this Contract, the following terms have the following meanings:

"**Accept**" has the meaning set forth in **Section 20**.

"**Acceptance**" has the meaning set forth in **Section 20**.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person.

"**Allegedly Infringing Materials**" has the meaning set forth in **Section 33**.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.

"**Business Owner**" is the individual appointed by the agency buyer to (a) act as the agency's representative in all matters relating to the Contract, and (b) co-sign off on notice of Acceptance. The Business Owner will be identified in the Statement of Work.

"Change" has the meaning set forth in **Section 5**.

"Change Notice" has the meaning set forth in **Section 5**.

"Change Proposal" has the meaning set forth in **Section 5**.

"Change Request" has the meaning set forth in **Section 5**.

"Confidential Information" has the meaning set forth in **Section 37.a**.

"**Configuration**" means State-specific changes made to the Software without Source Code or structural data model changes occurring.

"Contract" has the meaning set forth in the preamble.

"Contract Activities" refers to the includes the Services, Deliverables, delivery of commodities, or other contractual requirements set forth in **Schedule A – Statement of Work**, including any subsequent Statement(s) of Work, that the Contractor agrees to provide and the State agrees to purchase pursuant to the terms of this Contract.

"Contract Administrator" is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party's Contract Administrator will be identified in the Statement of Work.

"Contractor" has the meaning set forth in the preamble.

"Contractor's Bid Response" means the Contractor's proposal submitted in response to the State's requests to obtain Contract Activities.

"Contractor Personnel" means all employees of Contractor or any Permitted Subcontractors involved in the performance of Services hereunder.

"Deliverables" means all materials, including, but not limited to Software, Documentation, written materials and commodities including without limitation images or image files of any kind or type, that Contractor is required to or otherwise does provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in **Schedule A - Statement of Work**.

"Dispute Resolution Procedure" has the meaning set forth in **Section 50**.

"Documentation" means all generally available documentation relating to the Software, including all user manuals, operating manuals and other instructions, specifications, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of the Software or Hosted Services (as defined in **Schedule D**), including any functionality, testing, operation or use thereof.

"DTMB" means the Michigan Department of Technology, Management and Budget.

"Effective Date" has the meaning set forth in the preamble.

"Fees" means collectively all fees collected by the Contractor pursuant to the terms of this Contract.

"Financial Audit Period" has the meaning set forth in **Section 39**.

"Force Majeure" has the meaning set forth in **Section 49**.

"HIPAA" has the meaning set forth in **Section 44**.

"Intellectual Property Rights" means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including

computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

"Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

"Loss or Losses" means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"Maintenance Release" means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

"New Version" means any new version of the Software that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor's designation of a new version number.

"PAT" means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.0 Level AA.

"Permitted Subcontractor" has the meaning set forth in **Section 13**.

"Person" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"Pricing" means any and all fees, rates and prices payable under this Contract, including pursuant to any Schedule or Exhibit hereto.

"Pricing Schedule" means the schedule attached as **Schedule B**, setting forth the Fees, rates and Pricing payable under this Contract.

"Project Manager" is the individual appointed by each party to (a) monitor and coordinate the day-to-day activities of this Contract, and (b) for the State, to co-sign off on its notice of Acceptance of the Deliverables. Each party's Project Manager will be identified in the Statement of Work.

"Representatives" means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

"RFP" means the State's request designed to solicit responses for Contract Activities under this Contract.

"Software" means Contractor's software set forth in the Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Configurations made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract and the License Agreement.

"Services" means any of the services Contractor is required to or otherwise does provide under this Contract, **Schedule A** - Statement of Work, **Schedule C**— Contractor Hosted Software and Services (if applicable).

"Source Code" means the human readable source code of the Software to which it relates, in the programming language in which the Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the Software.

"Site" means the physical location designated by the State in, or in accordance with, this Contract or the Statement of Work for delivery or installation of the Contract Activities.

"State" means the State of Michigan.

"State Data" has the meaning set forth in **Section 36.a**.

"State Materials" means all materials and information, including equipment, documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

"Statement of Work" means any statement of work entered into by the parties and attached as a schedule to this Contract. The initial Statement of Work is attached as **Schedule A**, and subsequent Statements of Work shall be sequentially identified and attached as Schedules A-1, A-2, A-3, etc.

"Stop Work Order" has the meaning set forth in **Section 27**.

"Term" has the meaning set forth in the preamble.

"Third-Party" means any Person other than the State or Contractor.

"Transition Period" has the meaning set forth in **Section 31**.

"Transition Responsibilities" has the meaning set forth in **Section 31**.

"Unauthorized Removal" has the meaning set forth in **Section 15**.

"Unauthorized Removal Credit" has the meaning set forth in **Section 15**.

"User Data" means any and all information reflecting the access or use of the Hosted Services by or on behalf of the State or any Authorized User, including any end user profile, visit, session, impression,

metadata, click-through or click-stream data and any statistical or other analysis, information or data based on or derived from any of the foregoing.

“Warranty Period” means the period set forth in Schedule A, the Statement of Work, commencing on the date of acceptance of all Deliverables purchased pursuant to the terms of this Contract.

“WCAG 2.0 Level AA” means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0.

“Work Product” means all State-specific deliverables that Contractor is required to, or otherwise does, provide to the State under this Contract including but not limited to any images or image files of any kind or nature, application programming interfaces, written materials, computer scripts, software configuration, software customization, APIs, macros, user interfaces, reports, project management documents, forms, templates, and other State-specific documents and related materials together with all ideas, concepts, processes, and methodologies developed in connection with this Contract whether or not embodied in this Contract. Work Product does not include software.

2. **Duties of Contractor.** Contractor must perform the Services and provide the Deliverables described in **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, and meet operational standards, unless otherwise specified in **Schedule A**.

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.

3. **Statement(s) of Work.** Contractor shall provide the Contract Activities pursuant to Statements of Work entered into under this Contract. No Statement of Work shall be effective unless signed by each party's Contract Administrator. The term of each Statement of Work shall commence on the parties' full execution of the Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and attached as a schedule to this Contract. The State shall have the right to terminate such Statement of Work as set forth in **Sections 28 and 29**. Contractor acknowledges that time is of the essence with respect to Contractor's obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work is strictly required.
4. **Statement of Work Requirements.** Each Statement of Work may include the following: (a) names and contact information for Contractor's Contract Administrator, Project Manager and other personnel; (b) names and contact information for the State's Contract Administrator, Project Manager and Business Owner; (c) a detailed description of the Services to be provided under this Contract, including any training obligations of Contractor; (d) a detailed description of the Deliverables to be provided under this Contract; (e) a description of all liquidated damages associated with this Contract, if any; and (f) a detailed description of all State Resources, if any, required to complete the Implementation Plan, if such a Plan is necessary.
5. **Change Control Process.** The State may at any time request in writing (each, a “Change Request”) changes to the Statement of Work, including changes to the Contract Activities (each, a “Change”). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section 5**. No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Contractor may, on its own initiative and at its own expense,

prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

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

6. **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:
[Name]	[Name]
[Street Address]	[Street Address]
[City, State, Zip]	[City, State, Zip]
[Email]	[Email]
[Phone]	[Phone]

7. **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 Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.
8. **Insurance Requirements.** Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (i) protect the State from claims that arise out of, are alleged to arise out of, or otherwise result from Contractor's or subcontractor's performance; (ii) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (iii) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations	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 2010 07 04 and CG 2037 07 04.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$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.
Aviation Insurance	
<u>Aircraft Liability Minimum Limits:</u> \$1,000,000 Each Occurrence \$2,000,000 General Aggregate	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.
Workers' Compensation Insurance	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

If any required policies provide claims-made coverage, the Contractor must: (i) provide coverage with a retroactive date before the Effective Date of the Contract or the beginning of Contract Activities; (ii) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (iii) 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, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

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

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

9. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and

authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget

Cashiering

P.O. Box 30681

Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to MiDeal@michigan.gov.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

- 10. Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal. Upon written agreement between the State and Contractor, this contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 11. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. 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.
- 12. Intellectual Property Rights.** Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Work Product produced as part of the Contract Activities, and all associated intellectual property rights, if any. In general, Work Product constitutes works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Work Product, 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 Work Product, including all intellectual property rights therein. Contractor also irrevocably waives any and all claims Contractor may have now or hereafter have in any jurisdiction to so called "moral rights" or rights of *droit moral* with respect to the Work Product. If Contract Activities includes the purchase or use of software, such purchase, use, or access to Software shall be subject to **Schedules C, D, or E** of this Contract, as applicable. Notwithstanding any other provision of this Contract, the Sanborn Oblique Imagery and Sanborn Oblique Analyst® Software (collectively, the "licensed Products") are expressly subject to the terms

and conditions contained in the Sanborn Oblique Imagery End-User License Agreement and Sanborn Oblique Analyst® Software End-User License Agreement (attached hereto and incorporated herein) governing their use.

13. **Subcontracting.** Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any Third-Party to perform Services. The State's approval of any such Third-Party (each approved Third-Party, a "**Permitted Subcontractor**") does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will: (a) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees; (b) name the State a third-party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services; (c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and (d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.
14. **Staffing.** Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits. The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
15. **RESERVED**
16. **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, 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.
17. **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.
18. **Change of Control.** Contractor will notify within 30 days of any public announcement, or otherwise once legally permitted to do so, the State 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.
19. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
20. **Acceptance.** Unless otherwise provided in the Statement of Work or an applicable schedule, 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 Schedule A. 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 28**, 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.

21. **Delivery.** Contractor must deliver all applicable Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.
22. **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.
23. **Warranty Period.** The warranty period, if applicable, for any Contractor Hosted Software is a fixed period commencing on the date specified in **Schedule A**. If the Contract Activities do not function as warranted during the warranty period, the State may reject or return such non-conforming Contractor Hosted Software to the Contractor for a full refund.
24. **Terms of 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 performed as specified in **Schedule A**. 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. All prices 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.

- 25. Payment Disputes.** The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute, provided that the State: (a) timely renders all payments and amounts that are not in dispute; notifies Contractor of the dispute prior to the due date for payment, specifying in such notice: (i) the amount in dispute; and (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties; (b) works with Contractor in good faith to resolve the dispute promptly; and (c) promptly pays any amount determined to be payable by resolution of the dispute.

Contractor shall not withhold any Contract Activities or fail to perform any obligation hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 25** or any dispute arising therefrom.

- 26. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in **Schedule A**. 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.
- 27. 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.
- 28. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) 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 29**, 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. 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.

- 29. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any 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, or (b) continue to perform the Contract Activities in accordance with **Section 30**, 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.
- 30. Effect of Termination.** Upon and after the termination or expiration of this Contract or one or more Statements of Work for any or no reason: (a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 31**; (b) all licenses granted to Contractor in State Data will immediately and automatically also terminate. Contractor must promptly return to the State all State Data not required by Contractor for its Transition Responsibilities, if any; (c) Contractor will: (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State's Confidential Information; (ii) permanently erase the State's Confidential Information from its computer systems; and (iii) certify in writing to the State that it

has complied with the requirements of this **Section 30** in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.

- 31. 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, "**Transition Period**"), 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) taking 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 Contractor by any entity, agent, vendor, or employee of the State; (d) 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 (e) 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.
- 32. General 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 if the State deems necessary. Contractor will not, without the State's 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. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

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.

- 33. 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.

34. **Limitation of Liability and Disclaimer of Damages.** THE STATE WILL NOT BE LIABLE, 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 FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. 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.
35. **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 (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
36. **State Data.** If the Contract Activities includes the hosting of State Data with Contractor or Permitted Subcontractors, Contractor must also comply with **Schedule D – Data Hosting and Security for Hosted Software and Services** of this Contract
- a. **Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
 - b. **Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract, applicable SOM PSP's, and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
 - c. **Extraction of State Data.** Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
 - d. **Backup and Recovery of State Data.** Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
 - e. **Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming

aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 36** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

- f. State's Governance, Risk and Compliance (GRC) platform. Contractor is required to assist the State, at no additional cost, with development, completion and on-going maintenance of a system security plan (SSP) using the State's automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security controls within two weeks of the State's request. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames based on the risk level of the identified risk. For all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs and perform related remediation activities. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract.

37. 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. The provisions of this Section survive the termination of this Contract.

- 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; and, (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: (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.

38. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an

ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

- 39. Records Maintenance, Inspection, Examination, and Audit.** 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 financial and accounting 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 any 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.

- 40. Warranties and Representations.** 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) Contractor will perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (c) Contractor will meet or exceed the performance and operational standards, and specifications of the Contract; (d) Contractor will provide all Contract Activities in good quality, with no material defects; (e) Contractor will not interfere with the State's operations; (f) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (g) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third-party; (h) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (i) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (j) the Contract signatory has the authority to enter into this Contract; (k) 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; (l) 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 (m) 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 28**, Termination for Cause. If Contract Activities includes purchase, use, or access to software, Contractor must agree to additional Warranties and Representations found in **Schedules B** or **D** of this Contract, as applicable.

- 41. 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.
- 42. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 43. Accessibility Requirements.**
- a. All Software provided by Contractor under this Contract, including associated content and documentation, must conform to WCAG 2.0 Level AA. Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:
 - i. maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;
 - ii. comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;
 - iii. ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor's Software to WCAG 2.0 Level AA;
 - iv. promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor's Software;
 - v. upon the State's written request, provide evidence of compliance with this Section by delivering to the State Contractor's most current PAT for each product provided under the Contract; and
 - vi. participate in the State of Michigan Digital Standards Review described below.
 - b. State of Michigan Digital Standards Review. Contractor must assist the State, at no additional cost, with development, completion, and on-going maintenance of an accessibility plan, which requires Contractor, upon request from the State, to submit evidence to the State to validate Contractor's accessibility and compliance with WCAG 2.0 Level AA. Prior to the solution going-live and thereafter on an annual basis, or as otherwise required by the State, re-assessment of accessibility may be required. At no additional cost, Contractor must remediate all issues identified from any assessment of accessibility pursuant to plans and timelines that are approved in writing by the State.
 - c. Warranty. Contractor warrants that all WCAG 2.0 Level AA conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines such conformance claims provided by the Contractor represent a higher level of conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor's stated WCAG 2.0 Level AA conformance claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable

to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause under **Section 28**.

- d. Contractor must, without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State arising out of its failure to comply with the foregoing accessibility standards
 - e. Failure to comply with the requirements in this **Section** shall constitute a material breach of this Contract.
- 44. HIPAA Compliance.** The State and Contractor must comply with all obligations under HIPAA and its accompanying regulations, including but not limited to entering into a business associate agreement, if reasonably necessary to keep the State and Contractor in compliance with HIPAA.
- 45. 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.
- 46. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 47. 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 Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 48. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 49. 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.
- 50. 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.

- 51. 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 prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 52. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 53. 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:

Schedule A	Statement of Work
Schedule B	Pricing and Fees
Schedule C (as applicable)	Terms for Contractor Hosted Software and Services
Exhibit 1 to Schedule C (as applicable)	Support Services and Service Level Agreement for Hosted Services
Schedule D (as applicable)	Data Hosting and Security for Hosted Software and Services
Exhibit 1 to Schedule D (as applicable)	Contractor's Disaster Recovery Plan
Schedule E (as applicable)	Federal Provisions Addendum
Exhibit 1 to Schedule E (as applicable)	Byrd Anti-Lobbying Certification

- 54. Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, 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 Schedule A – Statement of Work; (b) second, Schedule A – 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 WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ITS AUTHORIZED USERS FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 55. 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.
- 56. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 57. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

Oblique Imagery

SCHEDULE A – STATEMENT OF WORK

1. DEFINITIONS

The following terms have the meanings set forth below. All initial capitalized terms that are not defined below shall have the respective meanings given to them in Section 1 of the Contract Terms and Conditions.

Term	Definition
DTMB	Department of Technology, Management and Budget
MiSAIL	Michigan Statewide Authoritative Imagery & Lidar
SOM	State of Michigan
State Partners	Entities including, but not limited to, Local, Federal, and Tribal Governments to which services and pricing established through this RFP may be extended
CONTIGUOUS AOIs	Two or more AOIs (Areas of Interest) touching at any one point. AOIs can be of various GSDs (Ground Sample Distance)

2. BACKGROUND

The MiSAIL program did not previously offer oblique imagery as an option. For many years, interested Michigan counties have had to research and negotiate oblique imagery purchases on their own. During MiSAIL stakeholder meetings conducted over the last 24 months, it was a frequent request that the MiSAIL program include oblique imagery purchasing options. The recently completed MiSAIL RFP process has accomplished that goal.

3. PURPOSE

It is the State's intent to establish this contract for oblique imagery and services to support State Agencies, State Partners, and local governments, providing them options that align with their data requirements and budget. Projects to be tasked under this contract are dependent on availability of funding.

4. CONTRACT TERM

The contract overall term is expected to be 3 years with 5, 1-year options.

5. SPECIFIC STANDARDS

IT Policies, Standards and Procedures (PSP)

Contractors agrees with the following PSP's.

Public IT Policies, Standards and Procedures (PSP):

https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html

Applicable non-publicly available PSP's are available after signing and returning to the State the required Nondisclosure Agreement (NDA) agreement.

Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see https://www.michigan.gov/documents/dtmb/1340.00.01_Acceptable_Use_of_Information_Technology_Standard_458958_7.pdf. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

Look and Feel Standard

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at www.michigan.gov/standards.

Mobile Responsiveness

The Contractor's Solution must utilize responsive design practices to ensure the application is accessible via a mobile device.

Accessibility Requirements

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA) and has adopted standards and procedures regarding accessibility requirements for websites and software applications. All websites, applications, software, and associated content and documentation provided by the Contractor as part of the Solution must comply with Level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for the Solution. If the Solution is comprised of multiple products, a PAT must be provided for each product. In addition to PATs, Contractors may include a verification of conformance certified by an industry-recognized third-party. If the Contractor is including any third-party products in the Solution, Contractor must obtain and provide the third-party PATs as well.

Each PAT must state exactly how the product meets the specifications. All "Not Applicable" (N/A) responses must be fully explained. Contractor must address each standard individually and with specificity; and clarify whether conformance is achieved throughout the entire product (for example - user functionality, administrator functionality, and reporting), or only in limited areas. A description of the evaluation methods used to support WCAG 2.0 Level AA conformance claims, including, if applicable, any third-party testing, must be provided. For each product that does not fully conform to WCAG 2.0 Level AA, Contractor must provide detailed information regarding the plans to achieve conformance, including timelines.

6. USER TYPE AND CAPACITY

Type of User	Access Type	Number of Users	Number of Concurrent Users
State Employees	Read Only	500	500
Trusted Third Parties	Read Only	250	250
Public Citizens	Read Only	400	400

Contractor can, at a minimum, meet the user type and capacity chart above.

7. ACCESS CONTROL AND AUTHENTICATION

The Contractor's solution must integrate with the State's IT Identity and Access Management (IAM) environment as described in the State of Michigan Digital Strategy (http://www.michigan.gov/dtmb/0,5552,7-150-56345_56351_69611-336646--,00.html), which consist of:

1. MILogin/Michigan Identity, Credential, and Access Management (MICAM)

- a. An enterprise single sign-on and identity management solution based on IBM's Identity and Access Management products including, IBM Security Identity Manager (ISIM), IBM Security Access Manager for Web (ISAM), IBM Tivoli Federated Identity Manager (TFIM), IBM Security Access Manager for Mobile (ISAMM), and IBM DataPower, which enables the State to establish, manage, and authenticate user identities for the State's Information Technology (IT) systems.
2. MILogin Identity Federation
 - a. Allows federated single sign-on (SSO) for business partners, as well as citizen-based applications.
3. MILogin Multi Factor Authentication (MFA, based on system data classification requirements)
 - a. Required for those applications where data classification is Confidential and Restricted as defined by the 1340.00 Michigan Information Technology Information Security standard (i.e. the proposed solution must comply with PHI, PCI, CJIS, IRS, and other standards).
4. MILogin Identity Proofing Services (based on system data classification requirements)
 - a. A system that verifies individual's identities before the State allows access to its IT system. This service is based on "life history" or transaction information aggregated from public and proprietary data sources. A leading credit bureau provides this service.

8. DATA RETENTION

All raw-captured data and final deliverables will have multiple backups, including one kept off-site in a secure location, and are held indefinitely for retrieval by the State. Through the duration of the project, processed data is updated to the most current backup. Upon delivery, the processed data is replaced with the finalized, delivered data for indefinite storage and upkeep.

9. SECURITY

The Solution will be storing public data.

Contractor's solution must meet the State's data security requirements:

- Must be encrypted in transit and at rest using AES 128 bit or higher encryption.
- Must remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) LOW controls using minimum control values as established in the applicable SOM PSP's.
- Must maintain an annual SSAE 18 SOC 2 Type 2 audit for the Solution based on SOM required NIST low controls.

10. END-USER OPERATING ENVIRONMENT

The software must accommodate the latest browser versions (including mobile browsers) as well as some pre-existing browsers. To ensure that users with older browsers are still able to access online services, applications must, at a minimum, display and function correctly in standards-compliant browsers and the state standard browser without the use of special plugins or extensions. The rules used to base the minimum browser requirements include:

- Over 2% of site traffic, measured using Sessions or Visitors (or)
- The current browser identified and approved as the State of Michigan standard

This information can be found at <https://www.michigan.gov/browserstats>. Please use the most recent calendar quarter to determine browser statistics. For those browsers with over 2% of site traffic, except Internet+- Explorer which requires support for at minimum version 11, the current browser version as well as the previous two major versions must be supported.

Contractor must support the current and future State standard environment at no additional cost to the State.

11. SOFTWARE

Contractor will be using technology developed by Sanborn - The Oblique Analyst®.

12. SOLUTION REQUIREMENTS

See attached **Schedule A - Exhibit 1 Business Specification Worksheet** for more detail to solution requirements.

13. INTEGRATION

See Oblique Imagery section 4. Software Installation and Training for system integration information.

14. MIGRATION

There are no migration services needed at this time, however the State may need migration services in the future.

15. TESTING SERVICES AND ACCEPTANCE

See **terms set forth in the Contract Terms and any applicable Schedules** for more information on testing services and acceptance.

16. TRAINING SERVICES

Sanborn will provide training regarding installation and operation of the oblique imagery viewing software, The Oblique Analyst®. A scheduled session of training with an instructor through a web based teleconference will be provided as a part of any sale to a new client. As installation and use of Sanborn's viewer application is simple and intuitive, it does not require on-site instruction, but telephone assistance will be provided if needed.

Sanborn realizes that new personnel may need to be trained. Additional initial training sessions are available at additional cost, either on site or via webinar. Excellent support documentation and a video tutorial for using the Oblique Analyst® is also available through the Help menu.

Telephone and email support are provided as a part of this proposal. Telephone support is available from 8am to 5pm Mountain Time, Monday through Friday.

17. HOSTING

For any software that is not to be hosted by the State, Contractor must maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 2 hours, and a Recovery Time Objective (RTO) of 8 hours.

18. SUPPORT AND OPERATIONS

See the Maintenance and Support Schedule and SLA, identified as Exhibit 1 to Schedule C for more information related to support and operations.

Support Hours

The State requires the Contractor to provide Support Hours as 8 a.m. to 5 p.m. Eastern, Monday thru Friday.

19. DOCUMENTATION

At the State's request, Contractor will provide all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software.

The Contractor's user documentation must provide detailed information about all software features and functionality, enabling the State to resolve common questions and issues prior to initiating formal support requests.

20. TRANSITION SERVICES

Upon termination or expiration of the agreement, 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 agreement to continue without interruption or adverse effect, and to facilitate the orderly transfer of the services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the services at the established rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable services to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return (in a format specified by the State) to the State all data stored in the solution; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

21. PRODUCTS AND SERVICES

Any additional products or services are properly identified throughout the contract.

22. CONTRACTOR PERSONNEL

Contractor Contract Manager. the individual appointed by it to (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

Contractor
Name: John Copple Address: 1935 Jamboree Drive, Suite 100 Colorado Springs, CO 80920 Phone: 719-264-5600 Email: jcopple@sanborn.com
cc to:
Name: Amy Kappel Address: 1935 Jamboree Drive, Suite 100 Colorado Springs, CO 80920 Phone: 719-264-5510 Email: akappel@sanborn.com

Contractor Project Manager. the Contractor Project Manager who will serve as the primary contact regarding services who will have the authority to act on behalf of the Contractor in matters pertaining to the implementation services.

Contractor
Name: Shawn Benham, PMP Address: 1935 Jamboree Drive, Suite 100 Colorado Springs, CO 80920 Phone: 719-502-1296 Email: sbenham@sanborn.com

Contractor Acquisition Manager. the name of individual to serve as acquisition manager responsible for all facets of the acquisition process for orthoimagery, lidar, and/or oblique imagery as applicable.

Contractor
Name: John Copple Address: 1935 Jamboree Drive, Suite 100 Colorado Springs, CO 80920 Phone: 719-264-5600 Email: jcopple@sanborn.com

Contractor Production Manager. the name of individual to serve as production manager responsible for the creation of required deliverables for orthoimagery, lidar, and/or oblique imagery as applicable.

Contractor
Name: Doug Zehr, CP, SP Address: 1935 Jamboree Drive, Suite 100 Colorado Springs, CO 80920 Phone: 719-264-5483 Email: dzehr@sanborn.com

23. CONTRACTOR PERSONNEL REQUIREMENTS

The Contractor must present certifications evidencing satisfactory Michigan State Police Background checks ICHAT and drug tests for all staff identified for assignment to this project.

In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Fingerprints, if required by project.

Contractor will pay for all costs associated with ensuring their staff meets all requirements.

24. STATE RESOURCES/RESPONSIBILITIES

The State will provide the following resources as part of the implementation and ongoing support of the Solution.

State Contract Administrator. The State Contract Administrator is the individual appointed by the State to (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

State Project Manager. The State Project Manager will serve as the primary contact with regard to implementation Services who will have the authority to act on behalf of the State in approving Deliverables, and day to day activities.

Agency Business Owner. The Agency Business Owner will serve as the primary contact for the business area with regard to business advisement who will have the authority to act on behalf of the State in matters pertaining to the business Specifications.

State Technical Lead. The State Technical Lead will serve as the primary contact with regard to technical advisement.

25. MEETINGS

At start of the engagement, the Contractor Project Manager must facilitate a project kick-off meeting with the support from the State's Project Manager and the identified State resources to review the approach to accomplishing the project, schedule tasks and identify related timing, and identify any risks or issues related to the planned approach. From project kick-off until final acceptance and go-live, Contractor Project Manager must facilitate weekly meetings (or more if determined necessary by the parties) to

provide updates on implementation progress. Following go-live, Contractor must facilitate monthly meetings (or more or less if determined necessary by the parties) to ensure ongoing support success.

26. PROJECT CONTROL & REPORTS

Once the project kick-off meeting has occurred, the Contractor Project Manager will monitor project implementation progress and report on a weekly basis to the State's Project Manager the following:

- Progress to complete milestones, comparing forecasted completion dates to planned and actual completion dates
- Accomplishments during the reporting period, what was worked on and what was completed during the current reporting period
- Indicate the number of hours expended during the past week, and the cumulative total to date for the project. Also, state whether the remaining hours are sufficient to complete the project.
- Tasks planned for the next reporting period
- Identify any existing issues which are impacting the project and the steps being taken to address those issues
- Identify any new risks and describe progress in mitigating high impact/high probability risks previously identified
- Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

All Contractors must submit and enter weekly timesheets into the State of Michigan's Project Portfolio Management tool, Clarity PPM, for approval and reporting. The weekly Clarity PPM timesheet will contain hours worked for assigned project tasks.

27. MILESTONES AND DELIVERABLES

Reserved.

28. PRICING

See **Schedule B – Pricing and Fees** for a detailed description of all costs associated with implementing, maintaining and supporting the Solution.

If Contractor reduces its prices for any of the software or services during the term of this Contract, the State shall have the immediate benefit of such lower prices for new purchases. Contractor shall send notice to the State's Contract Administrator with the reduced prices within fifteen (15) Business Days of the reduction taking effect.

Travel and Expenses

The State does not pay for overtime or travel expenses.

29. ADDITIONAL INFORMATION

The State reserves the right to purchase any additional services or products from the Contractor during the duration of the Contract.

STATE OF MICHIGAN

Oblique Imagery

Sanborn understands that the need for oblique imagery is entirely driven by specific needs of the State and its partners, and the availability of funding to support their projects.

1. Oblique Imagery

1.1 *Characteristics*

Sanborn is pleased to offer the State a complete digital aerial oblique imagery solution, from acquisition using one of our five (5) Track'Air 5-camera MIDAS sensors or our Ultracam Osprey Sensor, to software applications for deployment, viewing and analysis of the imagery. The Sanborn oblique imagery solution provides users with digital, natural-color oblique aerial imagery of the earth's surface, taken from a nominally consistent altitude and oblique angle over the project area. Using the application software, users can have access to oblique views from the four cardinal directions, as well as a nadir (vertical) view, all fully georeferenced, of any location within the AOI. Sanborn's oblique solution provides aerial triangulated oblique imagery for all 5 views that can be used for precision relative measurement to measure and analyze objects, as a background to overlay with other GIS data, and as source data for creating precision 3D models.

Our goals for an oblique aerial imagery project are to:

- Provide high quality, accurate, crisp, interpretable, as well as aesthetically pleasing imagery to the State, from spatial resolutions ranging from 2-inches to 2-feet.
- Provide a suite of software with viewing and analytical functions to assist you in extracting information to support applications including, but not limited to tax assessment, planning and zoning, property records, parks, transportation planning, traffic and accident analysis, elections administration, public safety (police and fire), public utilities (water and sewer), economic development, public safety, and environmental and natural resource management.

Each step within the production process includes details regarding Sanborn's Quality Assurance (QA)/Quality Control (QC) protocols. As a company with ISO-based quality control procedures, Sanborn ensures the products provided to the State will adhere to high quality and accuracy standards. Each production phase is reviewed and accepted before proceeding to the next phase.

Sanborn owns, operates and controls the entire workflow process that comprises a successful oblique product delivery to the customer. All the data acquisition is accomplished using aircraft and sensors owned by Sanborn.

Oblique Imagery Application Software

The Sanborn oblique imagery solution is delivered with two options for viewing:

1. A browser-based viewer called the Sanborn Oblique Analyst®
2. An ArcGIS desktop extension.

Sanborn's oblique imagery is provided with an ArcGIS plug-in at no additional cost that enables users to ingest the oblique imagery into ArcGIS. However, in order to gain maximum usability from the oblique imagery, and to ease distribution, the Sanborn oblique imagery solution can be delivered with an optional browser-based viewer which can be deployed on your own servers, Sanborn servers (for an additional fee), or in a cloud hosting environment. Both applications are capable of cataloging, organizing, and retrieving the imagery rapidly, and

making it available to users for analysis. The software is capable of retrieving vector data stored in ArcSDE.

Esri Desktop Extension





The Sanborn-provided Esri desktop extension currently works with 10.x versions of ArcGIS. The extension allows the user to import the nadir view of the imagery directly into ArcGIS, and access to tools ordinarily available within the ArcGIS desktop environment. If access to the oblique views is desired, the user need only click on a button to automatically launch the Sanborn Oblique Analyst® software, which then zooms to the same location.









Sanborn Oblique Analyst®

The browser-based Sanborn Oblique Analyst® suite of tools operates in a server environment and is accessed and utilized via the web or any network to which it is published.

Viewer Capabilities

The primary Sanborn Oblique Analyst® tool suite is described in the following table. In order to view and compare imagery from different years, Sanborn can at set up 2 instances of the Sanborn Oblique Analyst® and have a button that links the two (click on one Sanborn Oblique Analyst® session and open the other at the same location).

Tool and Icon	Description
Pan and zoom	With Pan and Zoom Tool selected, click/touch and drag the photo in any direction.
Select a location 	All the views taken in that image event are shown relative to a point that is on or nearby the object selected; dependent on the level of product that has been purchased
Clear location	Can be used to clear the selected location
View attributes 	The attributes of the shapefile(s) can be viewed by selecting the View Attributes Tool and clicking on the shape(s) in the main window. The attributes (if any are available) will display in the Search slide-out on the left side of the Viewer. This slide-out can be closed by clicking the Search button on the right of the slide-out.
Clear attributes 	Can be used to clear the selected location for viewing attributes
Show coordinates 	Shows location coordinates anywhere in the imagery
Measure Height	Measure the height along the side of an object in the image. Accuracy from the imagery is product dependent
Measure Length	Measure the length along the side of an object in the image. Accuracy from the imagery is product dependent

Tool and Icon	Description
Measure Area 	Measure the area of the surface of an object in the imagery. Accuracy from the imagery is imagery product dependent
Measure Slope 	Measure the slope of the surface of an object in the imagery. Accuracy from the imagery is imagery product dependent
Draw Point 	Draw a point on the image
Draw Line	Draw a line on the image
Draw Polygon 	Draw a polygon on the image
Draw Text 	Create text on the image
Erase drawing	Can be used to erase all the current drawings and annotations
Create PDF 	Create a PDF document of the image that can be saved to the local computer
Full Screen	Click this button to toggle full screen mode
Search Pane 	Can be used to search across the attributes of the layers loaded in the Oblique Analyst®, including address, parcel ID, or coordinates.
Layers Pane 	Can be used to turn on/off the individual vector shapefiles loaded in the Oblique Analyst®. WMS/WFS layers can also be viewed in the main navigation window.
Help	Support documentation and video tutorial for using the Oblique Analyst®

Integration with Other Applications

The Oblique Analyst® allows integration with other enterprise software environments through URL parameters, i.e., users/other applications can start the viewer at a specified location by using one of the following URL parameters.

- Coordinates: <http://<Viewer site>/<Viewer name>/?ll=lat,long>
- Address: <http://<Viewer site>/<Viewer name>/?addr=address>
- Feature ID: <http://<Viewer site>/<Viewer name>/?id=featured>

Training

The Oblique Analyst® software package is a proprietary offering from Sanborn. The software provides advanced imagery analysis tools that allow users to easily view and interact with their imagery. Sanborn will provide training regarding installation and operation of the oblique imagery viewing software. A scheduled session of training with an instructor through a web based teleconference will be provided as a part of any sale to a new client. As installation and use of Sanborn's viewer application is simple and intuitive, it does not require on-site instruction, but telephone assistance will be provided if needed.

Sanborn realizes that new personnel may need to be trained. Additional initial training sessions are available at additional cost, either on site or via webinar. Excellent support documentation and a video tutorial for using the Oblique Analyst® is also available through the Help menu.

Telephone and email support are provided as a part of this proposal. Telephone support is available from 8am to 5pm Mountain Time, Monday through Friday.

1.1.1 Environmental Conditions

Mobilization Planning

Sanborn understands and acknowledges the environmental conditions criteria and will comply. We will perform mobilization planning to ensure that airborne data acquisition can progress in accordance with the project schedule. This will include:

- Monitoring conditions to determine when the ground is clear of snow, leaf conditions of deciduous trees, and the conditions of lakes, streams and rivers, and roads.
- Monitoring sun angle in order to determine the time ranges in which flights can be conducted.
- Monitoring weather conditions
- Locating airports at which to stage aircraft and aircrews, and arranging for their accommodations.
- Coordinating the activities of our acquisition subcontractors.
- Making arrangements to access restricted airspace, if needed. Sanborn will coordinate all flight plans with air traffic control (ATC) well in advance of mobilization.
- Ensuring that all needed ground control and base stations are in place prior to the flights.
- Monitoring GNSS satellite configuration

Mission Execution

Photography will be accomplished by flight crews who are temporarily based in close proximity to the collection areas. We will attempt to acquire imagery in the shortest possible timeframe to minimize radiometric differences in the final image database. The acquisition team will monitor flight conditions and determine, in coordination with Sanborn's project manager and the State, when to initiate imagery collection flights. Sanborn proposes to hold daily calls with the State during the acquisition season to determine if optimal conditions for flying exist, based upon EC contacts and other sources of information, and if there are any special issues to be considered, such as smoke from fires, unusual flooding, or localized snow or foliage conditions.

Sanborn relies on a variety of sources to determine the suitability of conditions for acquisition. Our first and primary source is the flight crews and surveyors in the areas of interest. Flight crews are trained to observe and report the conditions as they see them on the ground and in flight. We will also coordinate with and defer to the State if there is any question regarding suitability of conditions. Finally, there are a variety of ways to observe conditions remotely, including NOAA weather reporting stations, daily weather satellite reports, weather video cams, and a variety of public sources that can be accessed for detailed observations.

Imagery will be captured at the appropriate spatial resolution for each AOI. Mission profiles will be programmed into the Track'Air Flight Management System, which is integrated with the sensor systems on board each aircraft. This computerized system assists the aircrews with mission navigation and sensor operation, ensuring that imagery is collected in accordance with the flight plan. Aircrews are also able to mark flightlines or exposures where turbulence, clouds, or other factors that bear on the quality of the imagery may be an issue, so it can be accessed rapidly following the flight, and assessed for recollection, if necessary.

Orthoimagery

If requested, Sanborn will provide orthorectification of the nadir images. Sanborn will use the same equipment, follow the same methods and procedures, and provide the same deliverables as were outlined Section 1- the orthoimagery section of this proposal response. However, all oblique imagery will have a spectral resolution of 3-bands only – true natural color RGB.

Hosting

Sanborn offers a variety of hosting solutions, from maintaining imagery in our own data center in Colorado Springs, to a range of options through our partner, Google, to accommodate the most rigorous cloud hosting requirements through the Google Cloud, or other 3rd party data hosting providers, such as Amazon. Our formal hosting offerings are discussed in full detail in Section 9 of this response.

1.2 Warranty Against Data Defects

Sanborn will correct all valid defects in the oblique imagery by re-acquisition or re-processing. Valid defects identified by the customer within 12 months of the delivery of final products will be corrected by re-processing.

1.3 Accessibility

As discussed in Section 1.1 above, Sanborn's oblique imagery solution includes the Sanborn Oblique Analyst[®], a browser-based application that provides users with a complete set of tools to view, analyze, perform measurements, mark up imagery, ingest other data sets, and other functionality to work efficiently with the oblique imagery. Sanborn does not charge per user or per seat, and the number of users accessing the Sanborn Oblique Analyst[®] is limited only by the capacity of the hosting environment.

Sanborn offers a variety of hosting solutions, from maintaining imagery in our own data center in Colorado Springs, to a range of options through our partner, Google, to accommodate the most rigorous cloud hosting requirements through the Google Cloud, or other 3rd party data hosting providers, such as Amazon. Our formal hosting offerings are discussed in full detail in Section 9 of this response.

1.3.1 Optional Historic Oblique Imagery

Sanborn offers the State access to historical oblique imagery through our own archive. The imagery is of a variety of dates and at a number of spatial resolutions, and is concentrated primarily in large metropolitan areas, such as the Detroit MSA. Currently, no vendor is able to offer comprehensive, statewide oblique imagery coverage of the entire State of Michigan flown on a regular chronological cycle, and at uniform resolution.

1.4 Bidder to provide an explanation of their approach to providing the following:

System Requirement	Description of contractor offering	Pricing
Collection of oblique imagery under required environmental conditions	Sanborn will acquire imagery only under the conditions required by the State, as outlined in Section 1.1.1 above. In summary, the acquisition team will monitor flight conditions and determine, in coordination with Sanborn's project manager and the State, when to initiate imagery collection flights. Sanborn proposes to hold daily calls with the State during the acquisition season to determine if optimal conditions for flying exist, based upon EC contacts and other sources of information, and if there are any special issues to be considered, such as smoke from fires, unusual flooding, or localized snow or foliage conditions.	To be provided in Schedule B – Pricing and Fees
Processing of oblique imagery in accordance with industry standards	Sanborn's process for acquiring and post-processing oblique imagery is fully documented below, following this table.	To be provided in Schedule B – Pricing and Fees
Hosting of oblique imagery data in accordance with industry standards	Sanborn offers a variety of hosting solutions, from maintaining imagery in our own data center in Colorado Springs, to a range of options through our partner, Google, to accommodate the most rigorous cloud hosting requirements through the Google Cloud, or other 3rd party data hosting providers, such as Amazon. Our formal hosting offerings are discussed in full detail in Section 9 of this response.	To be provided in Schedule B – Pricing and Fees
Available oblique imagery resolutions	Sanborn can provide oblique aerial imagery at spatial resolutions ranging from 2-inches to 2-feet.	To be provided in Schedule B – Pricing and Fees
Oblique imagery viewer. Describe your viewing solution under the following scenarios: 1) Ability to host State Partner provided vector data 2) Ability to integrate with third-party products, for example: ESRI, MapInfo, BS&A 3) Ability to integrate 911 dispatch systems 4) Ability for State Partner to administer user roles 5) Ability to generate reports on user access	1) The Sanborn Oblique Analyst® has the ability to directly ingest vector data, such as GIS shapefiles, or to connect to services, through the admin portal. Regular users of the application can then toggle the various feature classes of and on, as needed, via an interface on the left side of the display screen. 2) The Sanborn Oblique Analyst® allows integration with other enterprise software environments through URL parameters, i.e., users/other applications can start the viewer at a specified location by using one of the following URL parameters. <ul style="list-style-type: none"> ▪ Coordinates: http://<Viewer site>/<Viewer name>/?ll=lat,long ▪ Address: http://<Viewer site>/<Viewer name>/?addr=address 	To be provided in Schedule B – Pricing and Fees

6) Authorization to use images in internal and external maps, graphs, charts, reports, publications, etc.	<p>■ Feature ID: <a href="http://<Viewer site>/<Viewer name>/?id=featured">http://<Viewer site>/<Viewer name>/?id=featured</p> <p>To date, Sanborn has been able to integrate successfully with all required client applications. Sanborn has communicated with BS&A, and the Sanborn Oblique Analyst® is compatible with their software suite.</p> <p>3) See response to #2 above.</p> <p>4) The Sanborn Oblique Analyst® does not offer this functionality at this time, though it is a planned enhancement.</p> <p>5) The Sanborn Oblique Analyst® does not offer this functionality at this time, though it is a planned enhancement.</p> <p>6) Sanborn's licensing permits the use of the oblique images in internal and external maps, graphs, charts, reports, and publications, etc.</p>	
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Oblique Imagery Sensor Technology

Sanborn offers two (2) oblique aerial imagery sensors for the MiSAIL program. :

- The Vexcel Imaging Osprey M3 (a four band [R,G,B,NIR] system), and
- The Multi-camera Integrated Digital Acquisition System (MIDAS)

Sanborn has fully implemented these digital aerial camera technologies and adapted our workflows to maximize the advantages of each system.

The Vexcel Imaging Osprey M3 Oblique Aerial Imagery Sensor

Designed for maximum flexibility, the UltraCam Osprey extends a full photogrammetric nadir camera with oblique capture capability in four directions. More than a standard camera, the UltraCam Osprey offers cutting-edge technology to collect photogrammetry-grade nadir images (PAN, RGB and NIR) and oblique images (80 Megapixel RGB) simultaneously, supporting city mapping as well as classical ortho applications from the same flight mission. Additionally, the unique camera design of the UltraCam Osprey enables generation of imagery-based high- resolution point clouds. The results are dense, consistent and aligned data sets. The nadir and oblique camera channels are designed and oriented such that the full nadir footprint can be leveraged. Meanwhile, oblique image characteristics such as resolution and overlap are well aligned. The combination of these factors leads to best-in-class flight collection efficiency.

This sensor system consists of five (5) views created by four (4) cameras each tilted at 45 degrees and arrayed in 90 degree arcs around one (1) vertically mounted camera. The camera system is interfaced with a dedicated, computerized acquisition control system that collects precise position and orientation information for each image at the instant of exposure. The cameras employ laboratory calibrated lenses. The camera calibrations for each mission are further refined in the aerial triangulation process. Dedicated boresight calibration flights are conducted periodically to tune-up the calibration parameters.

By offering automated features such as nadir and oblique color balancing, nadir and oblique AT, dense point cloud generation, DTM/DSM generation as well as 3D model generation through UltraMap, the UltraCam Osprey is taking photogrammetry to new levels. Provides the following benefits:

- Its best-in-class flight collection efficiency is also reflected in a more economic flight planning through its wide nadir footprint.
- The ideal oblique tilt angle of 45° guarantees a well- balanced resolution throughout the entire image, even with vertical surfaces such as facades.
- The system is built with custom electronics to provide a frame rate of 1.75 seconds per frame allowing for maximum flight speed of 192 knots at 10 cm GSD and 80% forward overlap.

The standard UltraCam delivery package includes camera sensor, data unit with docking station, power supply unit and operator panel.

Digital Camera Specifications for Vexcel Osprey Mark 2	
Imaging Sensor	CCD
Shutter (long-life central leaf)	1/750 to 1/64
Forward-motion compensation (FMC)	TDI controlled
Maximum FMC capacity	50 pixels
Frame rate (minimum inter-image interval)	1 frame per 1.75 seconds
Dynamic range	> 72 db
Analog-to-digital-conversion	14 bits
Nadir Image	
PAN image size	13470 x 8670 pixels
PAN physical pixel size	5.2 µm
Color capability	4 channels – RGB Bayer pattern and NIR
Color image size	6,735 x 4,335 pixels
Color physical pixel size	5.2 µm
Pan sharpening ratio	1:2
Oblique Images	
Color capability 3 channels	3-channel RGB Bayer pattern
Color image size	10300 x 7700 pixels
Color physical pixel size	5.2 µm

The sensor is gyro-stabilized utilizing the GSM 4000®, the flagship of SOMAG AG Jena's airborne gyro mount line. It is the successor of the GSM 3000 and contains many new features. The gyro stabilization ensures perfectly aligned and pin-sharp images. The GSM 4000 hydraulic gimbal system contains four cylinders and two servo pumps to compensate for drift, roll and pitch movement in real-time for the best possible data acquisition quality.

The MIDAS Oblique Aerial Imagery Sensor

Developed by Track'Air, this sensor consists of five (5) views created by four (4) cameras each tilted at 45 degrees and arrayed in 90 degree arcs around one (1) vertically mounted camera. The camera system is interfaced with a dedicated, computerized acquisition control system that collects precise position and orientation information for each image at the instant of exposure. The cameras employ laboratory calibrated lenses. The camera calibrations for each mission are further refined in the aerial triangulation process. Dedicated boresight calibration flights are conducted periodically to tune-up the calibration parameters.

Digital Camera Specifications (Nikon)	
Device and Type	Multi-cameras Integrated Digital Acquisition System (MIDAS)
Sensor Configuration	5 Nikon D800E DSLR Cameras
Bands and Registration	3 color channels (red, green, blue)
Calibration Information	Factory calibration
Oblique Viewing Angle	45 degrees
Focal Length	50mm Nadir, 85mm Oblique
Pixel Size	4.89 microns
CCD Dimensions	7360 x 4912 (36 megapixels)
Radiometric Resolution	8-bit in all channels (RGB)

Data Acquisition Planning & Execution

Flight Planning

The process of planning, executing, quality controlling, and reporting on oblique imagery acquisition flights is not materially different that for conventional orthoimagery, and for the sake of brevity, they will not be repeated here. Likewise, the ground control and airborne GPS/IMU components of the work. Acquisition metrics are provided in the table below for 3-inch and 6-inch acquisitions. Sanborn can deliver imagery at spatial resolutions from 2-inches to 2-feet.

Oblique Aerial Imagery Draft Acquisition Specifications MIDAS Camera		
GSD	3-inch	6-inch
Proposed Sensor	Track'Air MIDAS 50/85	Track'Air MiDAS 50/85
Focal Length	50mm Vertical 85mm Oblique	50mm Vertical 85mm Oblique
Flying Height Proposed	2,532' AGL	5,064' AGL
Aircraft Speed	130 kts	175 kts
Sidelap*	35%	35%
Endlap*	60%	60%
Images Per Square Mile	318.8	89.1
Disk Space Per Square Mile	14.84 GB	4.15 GB
<i>*End lap and side lap will be adjusted as needed to ensure collection of quality imagery in areas with unique terrain or built infrastructure considerations.</i>		

Oblique Aerial Imagery Draft Acquisition Specifications Osprey Camera		
GSD	6-inch Nadir	3-inch Nadir
Acquisition Resolution	5.6-inch Oblique Image Resolution	2.8 -inch Oblique Image Resolution
Proposed Sensor	Vexcel Osprey M3	
Lens Focal Length	80mm Vertical 120mm Oblique	
Flying Height Proposed	6,562 feet AGL	3,281 feet AGL
Aircraft Speed	130 kts	
Sensor Platform	Fixed-Wing Aircraft	
Radiometry	3-band, 8-bit per channel RGB (Oblique) 4-band, 8-bit per channel RGB/NIR (Ortho)	
Acquisition Time	~10am – 2pm	
Sun Angle	30 degrees or greater	
Conditions	Snow free, leaf off, water within normal banks/no flooding. Less than 5% per image of cloud shadows, haze, smoke, precipitation, or other ground obscuring atmospheric conditions.	
<i>Please note: If the option for 4-band orthoimagery is not selected, Sanborn will utilize our MIDAS 5-way oblique sensor, which is equal to the Osprey sensor in terms of photogrammetric design, pixel resolution capabilities and radiometric quality. The only major difference is that it does not produce the 4th Near Infrared band that is required for FDOR orthoimagery production. All other flying parameters will remain the same.</i>		

Acquisition Status Tracking - *Online Acquisition Status Tool*

Sanborn has developed an online status tool which will be used to report flight status during the acquisition process. The online status tool will update each morning, and will complement the shapefile and reporting information provided daily by the Sanborn project manager. The status tool will display the updated version of the flight plan shapefile(s) indicating which frames have been captured, reviewed, and/or accepted.

The State will be provided with unique log-in credentials, and they and their stakeholders will have the ability to access the acquisition status information at their own convenience.

Real-Time Tracking

Sanborn aircraft are all equipped with ADS-B. By knowing the tail number of the acquisition aircraft and by using web applications such as Flight Radar 24 (<https://www.flightradar24.com/>) or Flight Aware (<https://flightaware.com/>), the aircraft can be tracked in real time. An example image is shown on the following page.

Imagery Data Production

The following sections describe Sanborn's strategy for producing oblique imagery that will meet the needs of the State. We believe image accuracy and image quality go hand in hand, and have established a process that incorporates quality control throughout all steps. As a standard practice, AT is utilized to ensure the best possible fit of oblique imagery to the ground.

Concurrently, the collected imagery is taken through several steps of processing to correct for uneven lighting, color, and contrast, while retaining the brilliancy of the raw exposures.

The geo-referencing accuracy of the post Aerial Triangulation (AT) solution is better than 3 pixels individually in X, Y and Z directions. This is achieved by using the Sanborn Oblique Geo-referencing process, which is performed by running a combined bundle block adjustment of both nadir and oblique images in one integrated AT solution – a process that is unique in the industry.

Geo-positioning of Oblique Imagery, Project Ground Control & Orientation

Geo-referencing

Sanborn's approach will be to utilize existing, available control points, augmented with newly surveyed ground control points only where needed, together with AGPS/IMU-controlled aerial photography to accurately control the Fully Analytical Aerial Triangulation (FAAT) solution.

Airborne GPS/Inertial Measurement Unit (AGPS/IMU) data will provide primary support for image positioning and orientation, minimizing the required number of ground control points required, while still enabling the creation of orthoimagery and other mapping products that conform to the accuracy standards set by the State for the project.

Spatial Reference System

Sanborn will ensure that all land survey and airborne GPS/IMU data collection and processing procedures generate control coordinates that result in an aerotriangulation solution that accurately georeferences all deliverable data in Michigan State Plane Coordinates (appropriate zone), North American Datum 1983(2011), in units of International Feet. It is understood that delivery may be required in NAD1983(1986), NAD1983(CORS96), NAD1983(HARN) datums as well.

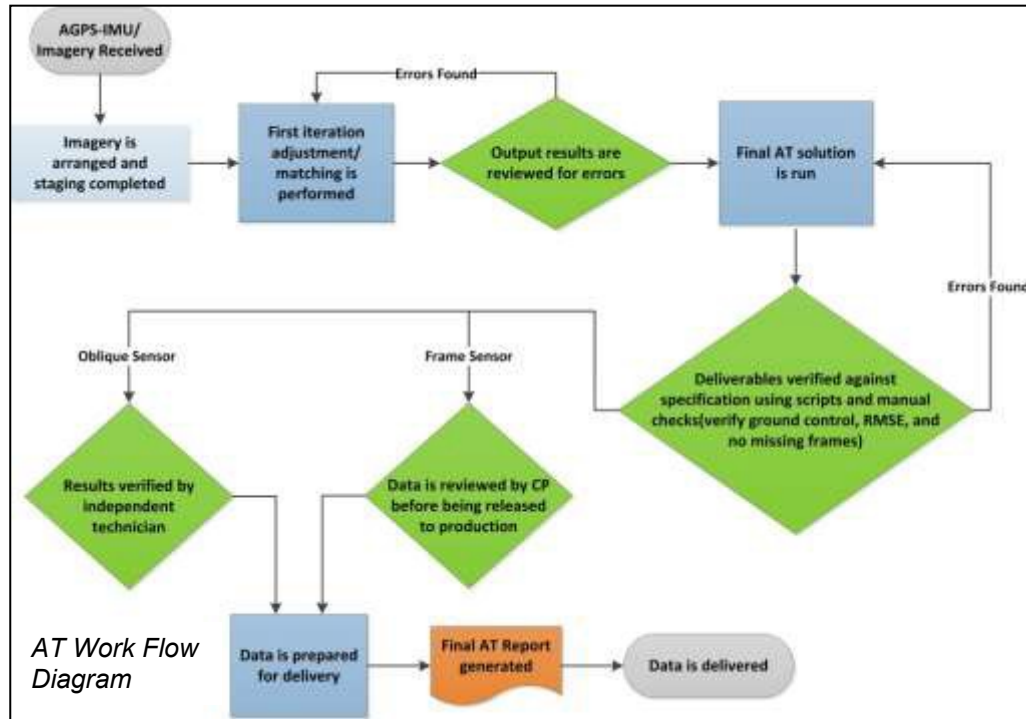
Aerial Triangulation (AT) and Accuracy Specifications

Each Sanborn oblique imaging system is calibrated at our boresight range in Colorado. The test range contains over 100 ground control points to allow for complete calibration of the system. The planning of the boresight flight is a critical component to achieving high accuracy with the system; therefore, Sanborn collects imagery with high overlap (80% forward and 60% side overlaps), at two (2) altitudes, and with opposing flight directions. The results of the boresight calibration are applied to each subsequent flight during the AT process.

AT for an oblique imaging system employs similar techniques of conventional AT; for example, both include the use of AGPS/IMU data and ground control points. However, conventional AT software was not designed to incorporate oblique imagery for tie point generation or to handle the large amount of data collected with the system. There are two approaches Sanborn considers to ensure the highest accuracy possible for the nadir and oblique imagery, depending on the needs and budget of the client:

- Perform AT with the nadir image only and, using the results, compute the orientation of the oblique imagery thus assuring a singular orientation system; or,
- Perform point matching on all nadir and oblique frames and utilize additional parameters; e.g. trajectory and timing information into a bundle block solution. This approach allows the identification and removal of errors associated with the individual cameras within the system and with the GPS trajectory. This method allows for tight quality control through all steps in the process, maximizing the resultant accuracy of all images in the block, and is the approach we are proposing for this project.

With both solutions, AGPS/IMU and ground control are key elements in assessing the final accuracy of the imagery. Surveys for establishing needed ground control and checkpoints will follow the same methods and procedures previously described in detail in this response.



Post-AT quality control is performed using an independent software solution designed to evaluate the relative and absolute accuracy of the AT solution. The user is able to measure ground control points as well as user identifiable points throughout the block. A report is generated complete with a summary of statistics for each point measured, allowing for immediate evaluation of the block accuracy. The AT report will be provided to the State, with the same required elements as that for the orthoimagery component of this program.

Image Processing and Color Balancing

The Sanborn Image Processing Team is responsible for receiving and processing the raw imagery data after it is acquired by the Acquisition Team in the field. The Image Processing Team works in tandem with the Geo-positioning Team to ensure that all collected data meets the predefined customer specifications. Once it has been determined that all data meets customer specifications, the Image Processing Team is responsible for imagery enhancement and color balancing the data. The Image Processing Team follows a well-defined work flow process that emphasizes quality control, as illustrated on the following page

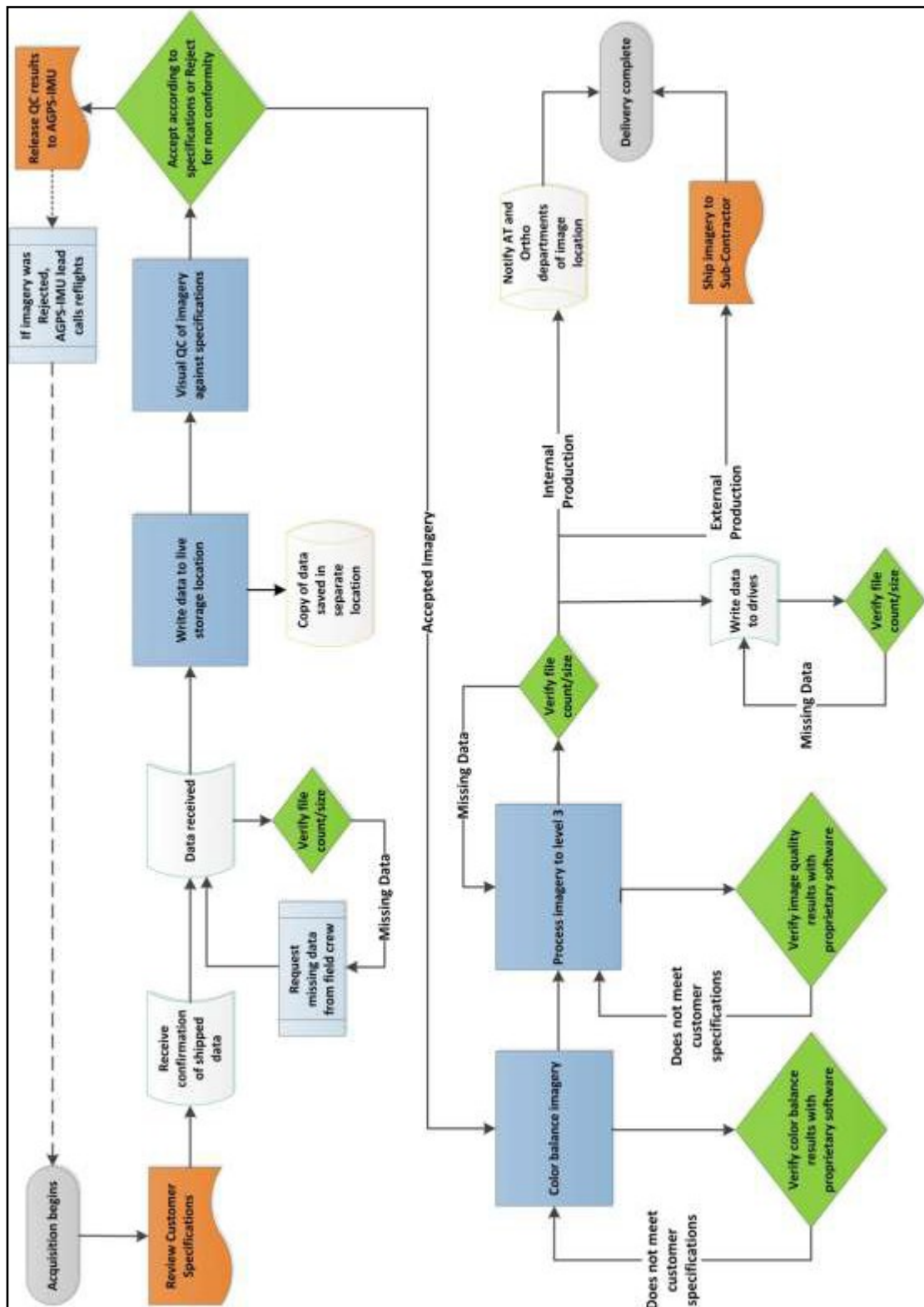


Image Processing Work Flow Diagram

Initial Image Review

The Image Processing Team receives the collected raw mission data from the Acquisition Team and downloads the data to the Sanborn system for storage, backup, and processing. The raw imagery data is imported into Adobe LightRoom for initial review. LightRoom is used for the review and processing of all imagery data because it is capable of handling a large volume of imagery (areas of interest are sometimes comprised of hundreds of thousands of individual image frames).

Imagery Enhancement and Color Balancing

Once the entire area of interest (AOI) has been collected and all imagery has been accepted, the imagery is rotated, enhanced, and color balanced in order to produce a final product that meets strict image quality guidelines. Before applying any image enhancements to the data, all oblique camera frames (images captured by non-nadir oriented cameras) are rotated 180 degrees in order to appear right-side up.

Once the oblique imagery has been rotated, the imagery is enhanced and color balanced using LightRoom. LightRoom allows the image processing technician to perform interactive, real-time image manipulation and lets the technician see how the adjustments applied affect either selected images, or the entire set of imagery all at once. The appropriate imagery enhancements and color balance are found by trial-and-error.

The following enhancements are performed in order to maximize the image quality and produce visually acceptable imagery:

- Sharpening: A sharpening algorithm (e.g. a masking algorithm) is applied to the imagery in order to bring out scene details without increasing the noise observable in the imagery.
- Noise reduction: A spatial and/or color noise reduction algorithm is applied to the imagery as necessary. The purpose is to reduce any noise present without degrading the image detail in any way.
- Histogram stretching (color balancing): A global histogram stretch is determined, which will be applied to all imagery. The stretch will have the following characteristics:
 - It will not clip scene details in the dark regions or the bright regions of the imagery (the ends of the image histogram)
 - It will enhance and bring out details in the dark regions of the histogram without enhancing noise (i.e. brings out details in the shadows)
 - It will maximize the dynamic range of the histogram and improve the overall contrast and appearance of the imagery
 - It will produce color balanced imagery with natural and realistic looking scene colors

The enhancement and color balancing process will result in imagery that has improved scene details and allows the viewer to see scene content more clearly than as presented in the raw imagery.

During the process of determining the appropriate sharpening, noise reduction and histogram stretch to apply, the image processing technician will test an assortment of imagery containing a wide variety of scene content in order to find the enhancements that will work best for the entire AOI. Applying global enhancements across the entire set of imagery will allow seamless viewing of the data.

After the appropriate sharpening, noise reduction and histogram stretch is applied to the entire set of imagery, the imagery is exported from the software. As a final QC check, the imagery is then processed through Sanborn proprietary software for further analysis. This analysis will ensure that the mean histogram values for all of the imagery fall within a specified and acceptable digital count range.

Spatial Correction

Digital Elevation Modeling

The orthorectification process requires a DEM as an input. The quality needed depends upon the accuracy and resolution requirements of the project. A DEM that is out of date or of insufficient resolution may cause a variety of geometric inaccuracies in the orthophoto image, including distortion of the image or unsightly, visible smearing. Additionally, bridges, flyovers, and certain other elevated features require special enhancement of the DEM in order to ensure that those features are modeled correctly and the orthorectification is accurate in those areas.

As Michigan has statewide lidar, or nearly so, Sanborn proposes to use the most current, existing lidar data as the terrain base for the oblique imagery. This will provide superior locational accuracy. Should the customer desire orthorectification Sanborn will ensure that the DEM will be of sufficient quality to support accurate orthorectification at the level of resolution for which imagery is ordered. In the event that no lidar data is available, Sanborn will use the best available terrain data source, or autocorrelate a new DEM.

Quality Assurance/Control: Final Image Review

Images will be checked for consistent color, tone and contrast; minimal variation of ground illumination and color variations due to lighting and cloud shadows; minimal artifacts such as haze, glint and glare; and adherence to the contracted specifications. Once the imagery has been enhanced, color balanced and reviewed, it is ready for delivery to the State.

The completed images will be delivered to the State in industry standard .JPG file format, with

.JGW world header files for georeferencing. Imagery will be provided at the specified high spatial resolution for each given area. Imagery will be 3 or 4 -band, 8-bit per channel RGB true natural color and NIR in the nadir camera. Please note that unless separately opted for, the nadir images will be georeferenced, but not orthorectified. Orthorectification of the nadir images can be performed at nominal cost, if needed, and as previously described in this response.

Quality Management System

Sanborn has earned ISO 9001:2015 certification and is registered with Platinum Registration, Inc. ISO 9001, a Quality System Standard, is a series of five international standards that provide guidance in the development and implementation of a specific Quality Management System.

With Sanborn's ISO 9001:2015 certification, the State is assured that:

- The requirements and specifications of the project have been thoroughly and rigorously evaluated and documented

- The production processes and procedures employed for the project are appropriate and adequate to produce the results intended
- The production processes and procedures are controlled, and results will be consistent and repeatable
- Documentation will be maintained that allows for evaluation of the processes and procedures to eliminate the source of nonconformities and to facilitate continual improvement of the processes and procedures
- Adequate facilities are available to meet the needs of the project
- Sufficient numbers of competent and adequately trained employees are working on the project

Sanborn's Quality Management System has been developed to ensure that adequate and continuous control is in operation for all activities affecting product quality. Where specific regulatory requirements affect our processes, our procedures and instructions will be designed or revised to meet such requirements. Sanborn employs methods and techniques that foster continuous improvement and good business practice.

Sanborn places an emphasis on problem prevention rather than dependence on detection after occurrence. Every effort is made to perform operations and quality-related activities correctly the first time. The Quality Management System includes a formal review of the parameters affecting product quality from conception to contractual fulfillment. Whenever necessary, corrective and preventive actions are implemented to ensure continuous improvement.






















Responsibilities

Sanborn staff members are aware of what they are authorized to undertake and are responsible for achieving. This is ensured by documentation of responsibilities and authorities in specific procedures. All employees are responsible for following applicable policies, procedures, and work instructions. Additionally, every employee has the responsibility and authority to:

- Initiate action to prevent the occurrence of any nonconformities relating to product, process, and the Quality Management System
- Identify and record any problems relating to the product, process, and the Quality Management System
- Initiate, recommend, or provide solutions through designated channels
- Control further processing and delivery of products until the deficiency has been corrected
- Ensure that the State's source materials and other property, including intellectual property, is logged, utilized, stored, and returned in a controlled manner

SCHEDULE A, EXHIBIT 1 - BUSINESS SPECIFICATION WORKSHEET

A	B	D
Business Specification Number	Business Specification	Contractor's explanation on how they will deliver the business Specification. Explain the details of any configuration/customization and the impacted risk that may be caused if configured or customized to meet the business specification.
1.0	Contractor must provide oblique imagery products and associated hosting services	Sanborn has offered a complete oblique imagery solution since 2012, including acquisition, post-processing, hosting services, and a specialized browser-based application known as the Sanborn Oblique Analyst® to view, analyze, and work with the oblique imagery
2.0	Ability to acquire, produce and deliver oblique imagery	<p>Sanborn is pleased to offer the State a complete digital aerial oblique imagery solution, from acquisition using our wholly-owned fleet of 12 aircraft, our new Vexcel Imaging Osprey digital aerial oblique imagery sensor, and one of our five (5) Track'Air 5- camera MIDAS digital aerial oblique imagery sensors, to cloud-hosted software applications for deployment, viewing and analysis of the imagery. The Sanborn oblique imagery solution provides users with digital, natural-color oblique aerial imagery of the earth's surface, taken from a nominally consistent altitude and oblique angle over the project area. Using the application software, users can have access to oblique views from the four cardinal directions, as well as a nadir (vertical) view, all fully georeferenced, of any location within the AOI. Sanborn's oblique solution provides aerial triangulated oblique imagery for all 5 views that can be used for precision relative measurement to measure and analyze objects, as a background to overlay with other GIS data.</p> <p>Sanborn owns, operates and controls the entire workflow process that comprises a successful oblique product delivery to the customer. All the data acquisition is accomplished using aircraft and sensors owned by Sanborn.</p>
3.0	Provide a secure online internet oblique imagery hosting and viewing solution	The browser-based Sanborn Oblique Analyst® suite of tools operates in a server environment and is accessed and utilized via the web or any network to which it is published. Sanborn offers a variety of hosting solutions, from maintaining imagery in our own data center in Colorado Springs, to a range of options through our partner, Google, to accommodate the most rigorous cloud hosting requirements through the Google Cloud, or other third-party data hosting providers, such as Amazon. Our formal hosting offerings are discussed in full detail in Section 9 of this response.
4.0	Solution must enable users to measure on screen: the width, length, area, and height of any feature on the image	Sanborn's oblique imagery solution includes the Sanborn Oblique Analyst®, a browser-based application that provides users with a complete set of tools to view, analyze, perform measurements, mark up imagery, ingest other GIS data sets, and other functionality to work efficiently with the oblique imagery. A summary of the functionality of the Sanborn Oblique Analyst® is provided in the graphic below. Its capabilities include all of the requirements specifically requested by the State.

		Tool and Icon	Description
		Pan and zoom 	With Pan and Zoom Tool selected, click/touch and drag the photo in any direction.
		Select a location 	All the views taken in that image event are shown relative to a point that is on or nearby the object selected; dependent on the level of product that has been purchased
		Clear location 	Can be used to clear the selected location
		View attributes 	The attributes of the shapefile(s) can be viewed by selecting the View Attributes Tool and clicking on the shape(s) in the main window. The attributes (if any are available) will display in the Search slide-out on the left side of the Viewer. This slide-out can be closed by clicking the Search button on the right of the slide-out.
		Clear attributes 	Can be used to clear the selected location for viewing attributes
		Show coordinates 	Shows location coordinates anywhere in the imagery 
		Measure Height 	Measure the height along the side of an object in the image. Accuracy from the imagery is product dependent
		Measure Length 	Measure the length along the side of an object in the image. Accuracy from the imagery is product dependent
		Measure Area 	Measure the area of the surface of an object in the imagery. Accuracy from the imagery is imagery product dependent
		Measure Slope 	Measure the slope of the surface of an object in the imagery. Accuracy from the imagery is imagery product dependent
		Draw Point 	Draw a point on the image
		Draw Line 	Draw a line on the image
		Draw Polygon 	Draw a polygon on the image
		Draw Text 	Create text on the image
		Erase drawing 	Can be used to erase all the current drawings and annotations
		Create PDF 	Create a PDF document of the image that can be saved to the local computer
		Full Screen 	Click this button to toggle full screen mode
		Search Pane 	Can be used to search across the attributes of the layers loaded in the Oblique Analyst®, including address, parcel ID, or coordinates.
		Layers Pane 	Can be used to turn on/off the individual vector shapefiles loaded in the Oblique Analyst®. WMS/WFS layers can also be viewed in the main navigation window.
		Help 	Support documentation and video tutorial for using the Oblique Analyst®

Sanborn Oblique Imagery End-User License Agreement

THE STATE'S EXECUTION OF THE STANDARD CONTRACT INCORPORATING THIS SANBORN OBLIQUE IMAGERY LICENSE AGREEMENT INDICATES THAT THE STATE HAS READ THIS LICENSE AGREEMENT AND ACCEPTS THESE TERMS AND CONDITIONS.

UNLICENSED USE OF THE SANBORN DATA IS A VIOLATION OF LAW, INCLUDING WITHOUT LIMITATION, THE U.S. AND INTERNATIONAL COPYRIGHT LAWS.

THE STATE IS GRANTED A LICENSE TO USE THE SANBORN DATA AS SET FORTH BELOW.

The Sanborn Map Company, Inc. ("Sanborn") grants a non-exclusive, non-transferable, royalty-free, perpetual license (the "License") to the State to install, download, use, copy, transmit, share, distribute and post via the world wide web Sanborn Oblique Imagery, including any services, documentation, data and information the State receives in connection therewith (the "Data") on the express condition that the State agrees to the terms and conditions of the license as set forth herein (the "License Agreement"):

1. License Granted

(a) The License granted by this License Agreement provides for the following use: Permits access to, or delivery or transmission of the Data to or from the State's local area network to install, download, use, copy, transmit, share, or distribute the Data and post the Data via the world wide web for an unlimited number of users for agency/organization users, at and/or from the address set forth in the State's corresponding purchase order or contract.

(b) This License Agreement is subject to Sanborn's agreements with its data suppliers, as may be imposed or modified from time to time. Any data available to the State under this License Agreement that is provided to Sanborn by third party data suppliers is expressly conditioned on Sanborn's agreements with such data suppliers. Sanborn shall cease delivery of such data to the State upon termination of the license granted by such data suppliers to Sanborn to distribute such data.

2. No Warranties

DISCLAIMER. SANBORN OFFERS A LIMITED, 90 DAY WARRANTY THAT ALL DATA PURCHASED IS COMPLETE AS PER THE STATE'S ORDER FULFILLMENT CONFIRMATION AND SUBSTANTIALLY CONFORMS TO THE PUBLISHED DATA SPECIFICATIONS. SANBORN MAKES NO WARRANTIES AS TO THE DATA, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. IN NO EVENT SHALL SANBORN BE LIABLE TO THE STATE OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THIS LICENSE AGREEMENT OR THE MANUFACTURE, SALE OR SUPPLY OF THE DATA WHETHER OR NOT SANBORN HAS BEEN ADVISED OF OR OTHERWISE MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES.

3. Limitation on Liability

(a) The Data provided hereunder is obtained or derived by Sanborn from sources, in a manner that Sanborn, using commercially reasonable resources, has reason to believe are reliable. Sanborn and its suppliers shall have no liability to the State, or a third party, for errors, omissions or malfunctions in the Data, other than the obligation of Sanborn to use commercially reasonable efforts, upon receipt of notice from the State, to correct a malfunction, error, or omission in any Data. Sanborn, at its option and expense, may either (a) replace the Data, or (b) refund the purchase price the State paid upon receipt of the Data. Infringement claims made against the Data, to include without limitation copyright, patent, trademark, or trade secret infringement claims, the remedies applicable to which are set forth in Section 33 of the Standard Contract Terms will not be subject to the limitations of liability described in this Section 3(a).

4. Proprietary Information

The State acknowledges that the data and information contained in the Data constitute copyrighted, trade secret or proprietary information of substantial value to Sanborn or its suppliers (collectively “Proprietary Information”). The State shall treat Proprietary Information as proprietary and shall not divulge, nor permit any of the State’s employees or agents to divulge, any Proprietary Information to any person or entity, except as expressly permitted under this License Agreement, or as otherwise provided by law.

5. Copyright

(a) The State understands and acknowledges that the Data are a copyright of Sanborn and the State agrees that it will insure that all copies of the Data, as well as any derivative works, will contain appropriate copyright notices and that all notices, reproductions or advertisements of any kind will also credit Sanborn as the source of the data.

(b) All Data and advertising must, minimally, be accompanied by the following copyright and credit statements: © *The Sanborn Map Company, Inc.* (insert year). *All Rights Reserved.*

6. Limitations on Use of Data

(a) The State agrees to obtain access to or receive deliveries of the Data solely from Sanborn and/or its authorized distributors or resellers.

(b) The State agrees to use the Data, the information and data contained in the Data, or any portion thereof (also, the “Data”) solely for: either the State’s internal governmental use and benefit, or the State’s transfer or disposition to, for internal use by or for the benefit of, any other person or entity as expressly permitted under this License Agreement; and, not for any resale or commercial use by the State or any other person or entity.

(c) The State shall not use the Data for any unlawful purpose.

(d) The State is specifically prohibited from charging, or requesting donations, for any copies of or derivative works of the Data, however made, and from charging, or requesting donations, for any copies of or derivative works of the Data, however made, which are incorporated into and/or combined or bundled with other data or products of any kind, commercial or otherwise.

(e) The State may disseminate reports and analyses that contain “insubstantial” portions of the Data by either hard copy or view only access; provided that such dissemination is for human cognition only and not for manipulation in machine readable form (“Hard Copy Redistribution”). “Insubstantial” means those portions of Data which in the aggregate do not form a significant part of the Data from which they were derived, combined or revised. The State may make an unlimited number of print and internet display copies of the Data for use by any other person or entity as expressly permitted under this License Agreement, provided that: (1) all copies include the copyright notice prominently displayed in or adjacent to the Data; (2) the State may not sell any copies made for such purposes; (3) with the exception provided by (4) below, the State will prohibit and prevent this data from being downloaded or screen captured by such other persons or entities; and (4) the State may display Data on the Internet in JPEG format that is non-geo-referenced and degraded from its original form.

(f) The State may post the Data or derivative works at full resolution on the world wide web under the following conditions: The Data and derivative works may be posted at full resolution for non-commercial purpose in a nondownloadable, non-distributable fashion and in a manner that does not allow a third party to extract or access the Data as a standalone file.

(g) If the State transmits, shares, or distributes the Data or posts the Data via the world wide web to any person or entity as expressly permitted under this License Agreement; the State shall ensure that such persons or entities receive and/or have access to such Data expressly pursuant and subject to all terms, conditions, and limitations contained in, and terms, conditions and limitations no less restrictive than those contained in, this License Agreement.

7. Intellectual Property

Sanborn retains and will hold all ownership rights in all intellectual property embodied in the Data including without limitation all trademarks, trade names, copyrights, service marks, source code, object code, documentation or data contained in the Data, the Data

itself or any derivative works or modifications of any kind thereto. Nothing contained herein shall be deemed a transfer by Sanborn of any rights therein, nor a right to customize, manage or otherwise manipulate the Data.

8. Termination

Upon failure of a party to comply with any material provision of this License Agreement, the other party may terminate this License Agreement on thirty (30) days written notice thereof if such material breach is not cured within such thirty day period. Upon the termination or expiration of this License Agreement, the State will immediately return or destroy all the Data.

9. Reserved

10. General

(a) This License Agreement shall be governed by, and construed in accordance with, the laws of the State of Michigan without giving effect to any choice of law or conflict of law provision that would cause the application of the laws of any other jurisdiction other than the State of Michigan. Each of the parties agrees that any dispute relating to or arising from this License Agreement or the transactions contemplated hereby shall be resolved only in the state or federal courts located in Michigan and the appellate courts having jurisdiction of appeals from such courts. Each of the parties hereby irrevocably and unconditionally (i) submits for itself and its property in any legal action relating to this License Agreement or the transactions contemplated hereby, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the state and federal courts in Michigan and appellate courts having jurisdiction of appeals from any of the foregoing, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such legal action shall be heard and determined in such courts; and (ii) consents that any such legal action may and shall be brought in such courts and waives any objection that it may now or hereafter have to the venue or jurisdiction of any such legal action in any such court or that such legal action was brought in an inconvenient court and agrees not to plead or claim the same.

(b) The State may only assign this License Agreement if required by law or Executive Order, to another State of Michigan agency or Department. If such an assignment occurs, the State will notify Sanborn of that assignment within thirty (30) days of its effective date.

(c) The parties expressly exclude from this License Agreement the applications of the United Nations Convention on Contracts for the International Sale of Goods, and further exclude from this License Agreement the applications of the International Sale of Goods Contracts Convention Act, S.C. 1990-1991, c. 13, and the International Sale of Goods Act, R.S.O. 1990, C.I.10, as amended.

Sanborn Oblique Analyst® Software End-User License Agreement

THE STATE'S EXECUTION OF THE STANDARD CONTRACT INCORPORATING THIS SANBORN OBLIQUE ANALYST® SOFTWARE LICENSE AGREEMENT INDICATES THAT THE STATE HAS READ THIS LICENSE AGREEMENT AND ACCEPTS THESE TERMS AND CONDITIONS.

THIS IS NOT FREE DATA, FREE PRODUCT OR FREE WARE. UNLICENSED USE OF THE SANBORN PRODUCTS IS A VIOLATION OF LAW, INCLUDING WITHOUT LIMITATION, THE U.S. AND INTERNATIONAL COPYRIGHT LAWS.

THE STATE IS GRANTED A LICENSE TO USE THE SANBORN PRODUCTS AS SET FORTH BELOW.

The Sanborn Map Company, Inc. ("Sanborn") grants a non-exclusive, non-transferable, perpetual license (the "License") to the State to install, download, use, copy or transmit the Sanborn Oblique Analyst® Software, including Browser-Based Oblique Image Viewer and ArcGIS Oblique Extension, and any services, documentation, data and information the State receives in connection therewith (the "Products"), on the express condition that the State agrees to the terms and conditions of the license as set forth herein (the "License Agreement"):

1. License Granted

(a) The License granted by this License Agreement provides for the following use: Permits access to, or delivery or transmission of the Products to or from the State's local area network to install, download, use, or copy the Products for an unlimited number of users for agency/organization users, at the address set forth in the State's corresponding purchase order or contract.

(b) This License Agreement is subject to Sanborn's agreements with its data suppliers, as may be imposed or modified from time to time. Any data available to the State under this License Agreement that is provided to Sanborn by third party data suppliers is expressly conditioned on Sanborn's agreements with such data suppliers. Sanborn shall cease delivery of such data to the State upon termination of the license granted by such data suppliers to Sanborn to distribute such data.

2. No Warranties

DISCLAIMER. SANBORN MAKES NO WARRANTIES AS TO THE PRODUCTS, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. IN NO EVENT SHALL SANBORN BE LIABLE TO THE STATE OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THIS LICENSE AGREEMENT OR THE MANUFACTURE, SALE OR SUPPLY OF THE PRODUCTS WHETHER OR NOT SANBORN HAS BEEN ADVISED OF OR OTHERWISE MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES.

3. Limitation on Liability

(a) The Products provided hereunder are obtained or derived by Sanborn from sources, in a manner that Sanborn, using commercially reasonable resources, has reason to believe are reliable. Sanborn and its suppliers shall have no liability to the State, or a third party, for errors, omissions or malfunctions in the Products, other than the obligation of Sanborn to use commercially reasonable efforts, upon receipt of notice from the State, to correct a malfunction, error, or omission in any Products. Sanborn, at its option and expense, may either (a) replace the Products, or (b) refund the purchase price the State paid upon receipt of the Products. Infringement claims made against the Products, to include without limitation copyright, patent, trademark, or trade secret infringement claims, the remedies applicable to which are set forth in Section 33 of the Standard Contract Terms will not be subject to the limitations of liability described in this Section 3(a).

4. Proprietary Information

The State acknowledges that the data and information contained in the Products constitute copyrighted, trade secret or proprietary information of substantial value to Sanborn or its suppliers (collectively “Proprietary Information”). The State shall treat Proprietary Information as proprietary and shall not divulge, nor permit any of the State’s employees or agents to divulge, any Proprietary Information to any person or entity, except as expressly permitted under this License Agreement, or as otherwise provided by law.

5. Copyright

(a) The State understands and acknowledges that the Products are a copyright of Sanborn and the State agrees that it will insure that all copies of the Products will contain appropriate copyright notices and that all notices, reproductions or advertisements of any kind will also credit Sanborn as the source of the data.

(b) All Products and advertising must, minimally, be accompanied by the following copyright and credit statements: © *The Sanborn Map Company, Inc.* (insert year). *All Rights Reserved.*

6. Limitations on Use of Products

(a) The State agrees to obtain access to or receive deliveries of the Products solely from Sanborn and/or its authorized distributors or resellers.

(b) The State agrees to use the Products solely for the State’s internal governmental use and benefit as expressly set forth in Section 1(a) of this License Agreement, and not for resale or other transfer or disposition to, or use by or for the benefit of, any other person or entity, except as follows: Use of the Products is limited to use by the State, temporarily on another computer system while the State’s computer is inoperative, or on a replacement computer system, upon advance written consent by Sanborn. The information and data contained in the Products, or any portion thereof (also, the “Products”), may not be transferred to or used on any other computer system except as provided for in this Section 6(b).

(c) The State may disseminate reports and analyses that contain “insubstantial” portions of the Products by either hard copy or view only access; provided that such dissemination is for human cognition only and not for manipulation in machine readable form (“Hard Copy Redistribution”). “Insubstantial” means those portions of Products which in the aggregate do not form a significant part of the Products from which they were derived, combined or revised. The State may make an unlimited number of print and internet display copies of the Products for use by any other person or entity as expressly permitted under this License Agreement, provided that: (1) all copies include the copyright notice prominently displayed in or adjacent to the Products; (2) the State may not sell any copies made for such purposes; (3) with the exception provided by (4) below, the State will prohibit and prevent this data from being downloaded or screen captured by such other persons or entities; and (4) the State may display Products on the Internet in JPEG format that is non-geo-referenced and degraded from its original form. Other than Hard Copy Redistribution, no other redistribution of the Products is permitted unless expressly set forth in this License Agreement.

(d) The State shall not use the Products for any unlawful purpose.

(e) The State is specifically prohibited from charging, or requesting donations, for the Products or any copies of the Products, however made, and from charging, or requesting donations, for the Products or any copies of the Products, however made, which are combined or bundled with other data or products of any kind, commercial or otherwise.

(f) The State is specifically prohibited from the reverse engineering of any kind of, or the creation of derived applications or data of any kind from, the Products and/or the information and data contained in the Products, or any portion thereof (also, the “Products”).

(g) The State is specifically prohibited from transmitting, sharing, or distributing the Products or posting the Products via the world wide web to any person or entity except as expressly permitted under this License Agreement.

7. Intellectual Property

Sanborn retains and will hold all ownership rights in all intellectual property embodied in the Products including without limitation all trademarks, trade names, copyrights, service marks, source code, object code, documentation or data contained in the Products, the Products themselves or any modifications of any kind thereto. Sanborn’s ownership in the Products, as set forth herein, shall also

apply to any derivative works of any kind thereto which are created in violation of this License Agreement. Nothing contained herein shall be deemed a transfer by Sanborn of any rights therein, nor a right to customize, manage or otherwise manipulate the Products.

8. Termination

Upon failure of a party to comply with any material provision of this License Agreement, the other party may terminate this License Agreement on thirty (30) days written notice thereof if such material breach is not cured within such thirty day period. Upon the termination or expiration of this License Agreement, the State will immediately return or destroy all the Products.

9. Reserved

10. General

(a) This License Agreement shall be governed by, and construed in accordance with, the laws of the State of Michigan without giving effect to any choice of law or conflict of law provision that would cause the application of the laws of any other jurisdiction other than the State of Michigan. Each of the parties agrees that any dispute relating to or arising from this License Agreement or the transactions contemplated hereby shall be resolved only in the state or federal courts located in Michigan and the appellate courts having jurisdiction of appeals from such courts. Each of the parties hereby irrevocably and unconditionally (i) submits for itself and its property in any legal action relating to this License Agreement or the transactions contemplated hereby, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the state and federal courts in Michigan and appellate courts having jurisdiction of appeals from any of the foregoing, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such legal action shall be heard and determined in such courts; and (ii) consents that any such legal action may and shall be brought in such courts and waives any objection that it may now or hereafter have to the venue or jurisdiction of any such legal action in any such court or that such legal action was brought in an inconvenient court and agrees not to plead or claim the same.

(b) The State may only assign this License Agreement, or its rights or obligations contained herein, if required by law or Executive Order, to another State of Michigan agency or Department. If such an assignment occurs, the State will notify Sanborn of that assignment within thirty (30) days of its effective date.

(c) The parties expressly exclude from this License Agreement the applications of the United Nations Convention on Contracts for the International Sale of Goods, and further exclude from this License Agreement the applications of the International Sale of Goods Contracts Convention Act, S.C. 1990-1991, c. 13, and the International Sale of Goods Act, R.S.O. 1990, C.I.10, as amended.

STATE OF MICHIGAN

Schedule B – Pricing and Fees

OBLIQUE IMAGERY PRICING		
Per Section 1.1 - Characteristics, in Attachment 3 - Oblique Imagery, contractor to provide oblique imagery pricing for <u>each</u> GSD product included in their proposal. Add additional rows as necessary		
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	12-in	\$ 1,284.80
51 - 250	12-in	\$ 266.06
251 - 500	12-in	\$ 139.82
501 - 1000	12-in	\$ 93.65
1001 - 2500	12-in	\$ 66.32
>2500	12-in	\$ 59.47
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	6-in	\$ 1,316.04
51 - 250	6-in	\$ 314.93
251 - 500	6-in	\$ 185.36
501 - 1000	6-in	\$ 138.92
1001 - 2500	6-in	\$ 108.90
>2500	6-in	\$ 100.87
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	3-in	\$ 1,474.52
51 - 250	3-in	\$ 420.27
251 - 500	3-in	\$ 283.49
501 - 1000	3-in	\$ 230.73
1001 - 2500	3-in	\$ 193.41
>2500	3-in	\$ 183.30

Contractor to provide OPTIONAL ORTHOIMAGERY pricing for <u>each</u> GSD included in their proposal. Add additional rows as necessary		
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	12-in	\$ 146.22
51 - 250	12-in	\$ 40.42
251 - 500	12-in	\$ 24.39
501 - 1000	12-in	\$ 17.95
1001 - 2500	12-in	\$ 13.36
>2500	12-in	\$ 12.02
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	6-in	\$ 191.06
51 - 250	6-in	\$ 76.80

251 - 500	6-in	\$ 55.14
501 - 1000	6-in	\$ 45.86
1001 - 2500	6-in	\$ 45.60
>2500	6-in	\$ 39.45
Contiguous Square Miles	GSD	Cost per sq. mile
1 - 50	3-in	\$ 291.14
51 - 250	3-in	\$ 165.36
251 - 500	3-in	\$ 131.36
501 - 1000	3-in	\$ 115.58
1001 - 2500	3-in	\$ 110.97
>2500	3-in	\$ 105.16

Per Section 1.2 - Accessibility, in Attachment 3 - Oblique Imagery, Contractor to provide pricing for each range of concurrent users.

Number of concurrent users	Annual cost per AOI	Annual cost for all AOIs
1 - 10		
11 - 50		
51 - 100		
101 - 200		
201 - 500		
>500		\$7,250 per install, one time charge (no annual cost). No limitations users

Per Section 1.2.1 - OPTIONAL Access to historic oblique imagery, in Attachment 3 - Oblique Imagery, Contractor to provide pricing for each range of concurrent users.

Number of concurrent users	Annual cost per AOI	Annual cost for all AOIs
1 - 10	N/A	N/A
11 - 50	N/A	N/A
51 - 100	N/A	N/A
101 - 200	N/A	N/A
201 - 500	N/A	N/A
>500	N/A	N/A

* **Contiguous** defined as two or more AOIs touching at any one point. AOIs can be of various GSDs



STATE OF MICHIGAN

SCHEDULE C - CONTRACTOR HOSTED SOFTWARE AND SERVICES

1. Definitions. In addition to the definitions found in the Contract Terms, for the purposes of this Contract, the following terms have the following meanings:

“Authorized Users” means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

“Harmful Code” means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.

“Hosted Services” means the hosting, management and operation of the Software and other services for remote electronic access and use by the State and its Authorized Users as described in one or more written, sequentially numbered, statements of work referencing this Contract, including all Specifications set forth in such statements of work, which, upon their execution will be attached as **Schedule A** to this Contract and by this reference are incorporated in and made a part of this Contract.

“Integration Testing” has the meaning set forth in **Section 4.2(c)**.

“Open-Source Components” means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third-party of any source code with which such software component is used or compiled.

“Open-Source License” has the meaning set forth in **Section 2.3**.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.

“Service Error” means any failure of any Hosted Service to be Available or otherwise perform in accordance with this Schedule.

“Specifications” means the specifications for the Software set forth in the applicable Statement of Work and, to the extent consistent with and not limiting of the foregoing, the Documentation.

“State Materials” means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

“Support Services” means the Software maintenance and support services Contractor is required to or otherwise does provide to the State pursuant to this **Schedule C** and **Exhibit 1** to this **Schedule C**.

“Technical Specification” means, with respect to any Software, the document setting forth the technical specifications for such Software and included in the Statement of Work.

“User Data” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, metadata, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.

“Warranty Period” means, for Contractor Hosted Software, the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software.

2. Hosted Software License Grant and Source Code Escrow

2.1 Contractor License Grant. Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable (except as provided herein) right and license during the Term and such additional periods, if any, as Contractor is required to perform Services under this Contract or any Statement of Work, to:

(a) access and use the Hosted Services, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;

(b) generate, print, copy, upload, download, store and otherwise Process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Hosted Services;

(c) prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Hosted Services under this Contract; and

(d) access and use the Hosted Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of

the Hosted Services, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Hosted Services as described in **Section 2.2**.

2.2 License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Hosted Services available to any third-party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Hosted Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.

2.3 Use. The State will pay Contractor the corresponding Fees set forth in the Statement of Work for all Authorized Users access and use of the Hosted Services or Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Hosted Services or Software, including any excess use.

2.4 Open-Source Licenses. For Contractor Hosted Software only (and not for the provision of Software-as-a-Service), any use hereunder of Open-Source Components shall be governed by, and subject to, the terms and conditions of the applicable open-source license ("Open-Source License"). Contractor shall identify and describe in an exhibit to the Statement of Work each of the Approved Open-Source Components of the Software, and include an exhibit attaching all applicable Open-Source Software Licenses or identifying the URL where these licenses are publicly available.

2.5 Source Code Escrow. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. Contractor hereby grants the State a license to use, reproduce, and create derivative works from the deposit material, provided the State may not distribute or sublicense the deposit material or make any use of it whatsoever except for such internal use as is necessary to maintain and support the Software. Copies of the deposit material created or transferred pursuant to this Contract are licensed, not sold, and the State receives no title to or ownership of any copy or of the deposit material itself. The deposit material constitutes Confidential Information of Contractor pursuant to **Section 37.a** of this Contract (provided no provision of **Section 37.e** calling for return of Confidential Information before termination of this Contract will apply to the deposit material).

3. Hosted Services Testing and Acceptance.

3.1 Hosted Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the Hosted Services procured thereunder ready and available for the State's use in accordance with the Statement of Work and this Contract, including any applicable milestone date or dates set forth in such Statement of Work.

3.2 Testing and Acceptance.

(a) When Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, the State will have thirty (30) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the notice to test the Hosted Services to determine whether they comply in all material respects with the requirements of this Contract and the Specifications.

(b) Upon completion of the State's testing, the State will notify Contractor of its acceptance ("**Accept**" or "**Acceptance**") or, if it has identified any noncompliance with the Specifications, rejection ("**Reject**" or "**Rejection**") of the Hosted Services. If the State Rejects the Hosted Services, the State will provide a written list of items that must be corrected. On receipt of the State's notice, Contractor will promptly commence, at no additional cost or charge to the State, all reasonable efforts to complete, as quickly as possible and in any event within twenty (20) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the State's notice, such necessary corrections, repairs and modifications to the Hosted Services to bring them into full compliance with the Specifications.

(c) If any corrective measures are required under **Section 3.2(b)**, upon completion of all such measures, Contractor will notify the State in writing and the process set forth in **Section 3.2(a)** and **Section 3.2(b)** will be repeated; provided that if the State determines that the Hosted Services, as revised, still do not comply in all material respects with the Specifications, the State may, in its sole discretion:

- (i) require the Contractor to repeat the correction, repair and modification process set forth in **Section 3.2(b)** at no additional cost or charge to the State; or
- (ii) terminate any and all of the relevant Statement of Work, this Contract and any other Statements of Work hereunder.

(d) The parties will repeat the foregoing procedure until the State Accepts the Hosted Services or elects to terminate the relevant Statement of Work as provided in **Section 3.2(c)(ii)** above. If the State so terminates the relevant Statement of Work, Contractor must refund to the State all sums previously paid to Contractor under such Statement of Work within ten (10) Business Days of the State's written notice of termination, and the State will be relieved of all obligations thereunder.

4. Support Services.

4.1 Maintenance and Support Services. Contractor will provide Hosted Service maintenance and support services (collectively, "**Support Services**") in accordance with the provisions set forth in this **Schedule C** and in the Service Level Agreement, attached as **Exhibit 1** to this **Schedule C** (the "**Support Services and Service Level Agreement**").

4.2 Maintenance Services. Contractor will provide Hosted Service maintenance and support services (collectively, "**Software Support Services**") in accordance with the provisions of this **Schedule C**, including **Exhibit 1** to this **Schedule C**. The Software Support Services are included in the Services, and Contractor may not assess any additional fees, costs or charges for such Software Support Services. Contractor will continuously maintain the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement as defined in **Exhibit 1** to this **Schedule C**. Such maintenance services include providing to the State and its Authorized Users:

(a) all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Hosted Services, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; and

(b) all such services and repairs as are required to maintain the Hosted Services or are ancillary, necessary or otherwise related to the State's or its Authorized Users' access to or use of the Hosted Services, so that the Hosted Services operate properly in accordance with the Contract and this **Schedule C**.

4.3 Support Service Responsibilities. Contractor will:

(a) correct all Service Errors in accordance with the Support Service Level Requirements as defined in **Exhibit 1** to this **Schedule C**, including by providing defect repair, programming corrections and remedial programming;

(b) provide unlimited telephone support between the hours of 7 am and 7 pm, EST;

(c) provide unlimited online support 24 hours a day, seven days a week;

(d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and

(e) respond to and Resolve Support Requests as specified in **Exhibit 1** to this **Schedule C**.

5. Software and Service Warranties.

5.1 Contractor represents and warrants to the State that:

(a) Contractor has, and throughout the Term and any additional periods during which Contractor does or is required to perform the Services, including Hosted Services, will have, the unconditional and irrevocable right, power and authority, including all permits and licenses required, to provide the Services and grant and perform all rights and licenses granted or required to be granted by it under this Contract;

(b) neither Contractor's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Contract does or at any time will: (i) conflict with or violate any applicable law, including any law relating to data privacy, data security or personal information; (ii) require the consent, approval or authorization of any governmental or regulatory authority or other third-party; or (iii) require the provision of any payment or other consideration by the State or any Authorized User to any third-party, and Contractor shall promptly notify the State in writing if it becomes aware of any change in any applicable law that would preclude Contractor's performance of its material obligations hereunder;

(c) as accessed and used by the State or any Authorized User in accordance with this Contract and the Specifications, the Hosted Services, Documentation and all other Services and materials provided by Contractor under this Contract will not infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third-party;

(d) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened action, and it has not received any written, oral or other notice of any action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services, Hosted Services, or Software does or would infringe,

misappropriate or otherwise violate any Intellectual Property Right of any third-party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services, including Hosted Services, or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

(e) the Software, Services (including Hosted Services) will in all material respects conform to and perform in accordance with the Specifications and all requirements of this Contract, including the Availability and Availability Requirement provisions set forth in Exhibit 1 to this **Schedule C**;

(f) all Specifications are, and will be continually updated and maintained so that they continue to be, current, complete and accurate and so that they do and will continue to fully describe the Hosted Services in all material respects such that at no time during the Term or any additional periods during which Contractor does or is required to perform the Services will the Hosted Services have any material undocumented feature;

(g) the Contractor Systems and Services (including Hosted Services) are and will remain free of Harmful Code;

(h) Contractor will not advertise through the Hosted Services (whether with adware, banners, buttons or other forms of online advertising) or link to external web sites that are not approved in writing by the State;

(i) Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;

(j) During the term of this Contract, any audit rights contained in any third-party software license agreement or end user license agreement for third-party software incorporated in or otherwise used in conjunction with the Services, will apply solely to Contractor's (or its subcontractors) facilities and systems that host the Services (including any disaster recovery site), and regardless of anything to the contrary contained in any third-party software license agreement or end user license agreement, third-party software providers will have no audit rights whatsoever against State systems or networks; and

(k) Contractor acknowledges that the State cannot indemnify any third parties, including but not limited to any third-party software providers that provide software that will be incorporated in or otherwise used in conjunction with the Services, and that notwithstanding anything to the contrary contained in any third-party software license agreement or end user license agreement, the State will not indemnify any third-party software provider for any reason whatsoever.

5.2 DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY SUBJECT MATTER HEREOF.

SCHEDULE C, EXHIBIT 1 – SUPPORT SERVICES AND SERVICE LEVEL AGREEMENT FOR HOSTED SERVICES

1. Definitions. For purposes of this **Exhibit 1** to **Schedule C**, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract or its associated respective Schedules.

“Actual Uptime” means the total minutes in the Service Period that the Hosted Services are Available.

“Availability” has the meaning set forth in **Section 3(a)**.

“Availability Requirement” has the meaning set forth in **Section 3(a)**.

“Available” has the meaning set forth in **Section 3(a)**.

“Contractor Service Manager” has the meaning set forth in **Section 2.1**.

“Corrective Action Plan” has the meaning set forth in **Section 4.3**.

“Critical Service Error” has the meaning set forth in **Section 4**.

“Exceptions” has the meaning set forth in **Section 3.2**.

“Force Majeure Event” has the meaning set forth in **Section 5.1**.

“High Service Error” has the meaning set forth in **Section 4**.

“Hosted Services” has the meaning set forth in **Schedule C**.

“Low Service Error” has the meaning set forth in **Section 4**.

“Medium Service Error” has the meaning set forth in **Section 4**.

“Resolve” has the meaning set forth in **Section 4.1(a)**.

“Scheduled Downtime” has the meaning set forth in **Section 3.3**.

“Scheduled Uptime” means the total minutes in the Service Period.

“Service Availability Credits” has the meaning set forth in **Section 3.6(a)**.

“Service Level Credits” has the meaning set forth in **Section 4.2**.

“Service Level Failure” means a failure to perform the Software Support Services fully in compliance with the Support Service Level Requirements.

“**Service Period**” has the meaning set forth in **Section 3(a)**.

“**Software**” has the meaning set forth in the Contract.

“**Software Support Services**” has the meaning set forth in **Section 4.1**.

“**State Service Manager**” has the meaning set forth in **Section 2.2**.

“**State Systems**” means the information technology infrastructure, including the computers, software, databases, electronic systems (including database management systems) and networks, of the State or any of its designees.

“**Support Request**” has the meaning set forth in **Section 4**.

“**Support Service Level Requirements**” has the meaning set forth in **Section 4**.

“**Term**” has the meaning set forth in the Contract.

2. Personnel

2.1 Contractor Personnel for the Hosted Services. Contractor will appoint a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of Support Requests and the Software Support Services (the “**Contractor Service Manager**”).

2.2 State Service Manager for the Hosted Services. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the primary contact with respect to the Services who will have the authority to act on behalf of the State in matters pertaining to the Software Support Services, including the submission and processing of Support Requests (the “**State Service Manager**”).

3. Service Availability and Service Availability Credits.

(a) Availability Requirement. Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a “**Service Period**”), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the “**Availability Requirement**”). “**Available**” means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \times 100 = \text{Availability}$.

3.2 Exceptions. No period of Hosted Service degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following ("**Exceptions**"):

- (a) failures of the State's or its Authorized Users' internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 3.3**.

3.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services in whole or in part ("**Scheduled Downtime**"). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 12:00 a.m. and 5:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

3.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

3.5 Service Availability Reports. Within thirty (30) days after the end of each Service Period, Contractor will provide to the State a report describing the Availability and other performance of the Hosted Services during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

3.6 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State the following credits on the fees payable for Hosted Services provided during the Service Period ("**Service Availability Credits**"):

Availability	Credit of Fees
≥99.98%	None
<99.98% but ≥99.0%	15%
<99.0% but ≥95.0%	50%
<95.0%	100%

(b) Any Service Availability Credits due under this **Section 3.6** will be applied in accordance with payment terms of the Contract.

(c) If the actual Availability of the Hosted Services is less than the Availability Requirement in any two (2) of four (4) consecutive Service Periods, then, in addition to all other remedies available to the State, the State may terminate the Contract on written notice to Contractor with no liability, obligation or penalty to the State by reason of such termination.

3.7 Service Monitoring and Management. Contractor will continuously monitor and manage the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement. Such monitoring and management includes:

(a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;

(b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and

(c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):

(i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;

(ii) if Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 4**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and

(iii) notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

4. Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 4** ("**Support Service Level Requirements**"), and the Contract.

4.1 Support Requests. The State will classify its requests for Service Error corrections in accordance with the descriptions set forth in the chart below (each a "**Support Request**"). The State Service Manager will notify Contractor of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none"> • Issue affecting entire system or single critical production function; • System down or operating in materially degraded state; • Data integrity at risk; • Declared a Critical Support Request by the State; or • Widespread access interruptions.
High Service Error	<ul style="list-style-type: none"> • Primary component failure that materially impairs its performance; or • Data entry or access is materially impaired on a limited basis.
Medium Service Error	<ul style="list-style-type: none"> • Hosted Service is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.
Low Service Error	<ul style="list-style-type: none"> • Request for assistance, information, or services that are routine in nature.

(a) Response and Resolution Time Service Levels. Response and Resolution times will be measured from the time Contractor receives a Support Request until the respective times Contractor has (i) responded to, in the case of response time and (ii) Resolved such Support Request, in the case of Resolution time. **“Resolve”** (including **“Resolved”**, **“Resolution”** and correlative capitalized terms) means that, as to any Service Error, Contractor has provided the State the corresponding Service Error correction and the State has confirmed such correction and its acceptance thereof. Contractor will respond to and Resolve all Service Errors within the following times based on the severity of the Service Error:

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)	Service Level Credits (For Failure to Respond to any Support Request Within the Corresponding Response Time)	Service Level Credits (For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)
Critical Service Error	One (1) hour	Three (3) hours	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

(b) Escalation. With respect to any Critical Service Error Support Request, until such Support Request is Resolved, Contractor will escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Contractor support personnel, including, as applicable, the Contractor Service Manager and Contractor's management or engineering personnel, as appropriate.

4.2 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 4.1(a) ("Service Level Credits")** in accordance with payment terms set forth in the Contract.

4.3 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State's review, comment and approval, which, subject to and upon the State's written approval, shall be a part of, and by this reference is incorporated in, the Contract as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan must include, at a minimum: (a) Contractor's commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

5. Force Majeure.

5.1 Force Majeure Events. Subject to **Section 5.3**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

5.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under the Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate the Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of five (5) Business Days or more. Unless the State terminates the Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under the Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

5.3 Exclusions; Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of the Contract or this Schedule:

- (a) in no event will any of the following be considered a Force Majeure Event:
- (i) shutdowns, disruptions or malfunctions of Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Contractor Systems; or
 - (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event.

SCHEDULE D – DATA HOSTING AND SECURITY FOR HOSTED SOFTWARE AND SERVICES

1. **Definitions.** For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract.

“**Contractor Security Officer**” has the meaning set forth in **Section 2** of this Schedule.

“**Contractor Systems**” has the meaning set forth in **Section 5** of this Schedule.

“**FedRAMP**” means the Federal Risk and Authorization Management Program, which is a federally approved risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

“**FISMA**” means the Federal Information Security Modernization Act of 2014 (Pub.L. No. 113-283 (Dec. 18, 2014)).

“**Hosted Services**” means the hosting, management and operation of the information technology infrastructure, including all computing hardware, ancillary equipment, networking, Software, firmware, databases, data, other services (including support and subcontracted services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

“**NIST**” means the National Institute of Standards and Technology.

“**PSP**” means the State’s IT Policies, Standards and Procedures

“**PCI**” means the Payment Card Industry.

“**SSAE**” means Statement on Standards for Attestation Engagements.

2. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Contractor Systems who has sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto (“Contractor Security Officer”).
3. The State has established Information Technology (IT) PSP’s to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor’s data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, of which the publicly available ones are at https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html.

This responsibility also extends to all service providers and subcontractors with access to State Data or an ability to impact the contracted solution. Contractor Responsibilities are determined

from the PSP's based on the services being provided to the State, the type of IT solution, and the applicable laws and regulations.

4. Protection of the State Data. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will:

- a. Software or data hosting provided by sub-contractors must be in a government cloud IT environment with FedRAMP authorization and must maintain FedRAMP authorization for the sub-contracted hosting environment(s) throughout the Term, and in the event the contractor is unable to maintain FedRAMP authorization, the State, at its sole discretion, may either a) require the Contractor to move the Software and State Data to an alternative hosting environment selected and approved by the State at Contractor's sole cost and expense without any increase in Fees, or b) immediately terminate this Contract for cause pursuant to Section 23.1 of the Contract;
- b. for Hosted Services provided directly by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required NIST low controls for the Hosted Services throughout the Term;
- c. ensure that the Software and State Data is securely hosted, supported, administered, and accessed in a data center and backup data center that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards (www.uptimeinstitute.com), or its equivalent;
- d. maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State's Confidential Information that comply with the requirements of the State's data security policies as set forth in the Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 (most recent version) LOW Controls using minimum control values as established in the applicable SOM PSP's;
- e. provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of the State's Confidential Information and the nature of such Confidential Information, consistent with best industry practice and standards;
- f. take all reasonable measures to:
 1. secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Services against "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems or the information found therein; and
 2. prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) the State's Confidential Information from being commingled with or contaminated by the data of other customers or their users of the Services; and (iii) unauthorized access to any of the State's Confidential Information;
- g. ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules with a key size of 128 bits or higher;

- h. ensure that State Data is encrypted in transit and at rest using currently validated encryption modules in accordance with FIPS PUB 140-2 (as amended). *Security Requirements for Cryptographic Modules*;
 - i. ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML) , Open Authentication (OAuth) or comparable mechanisms;
 - j. ensure the Hosted Services implements multi-factor authentication for privileged/administrative and other identified access; and
 - k. assist the State, at no additional cost, with development, completion and on-going maintenance of a system security plan (SSP) using the State's automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security controls within two weeks of the State's request. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames based on the risk level of the identified risk. For all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs and perform related remediation activities. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. . Failure to comply with this section will be deemed a material breach of the Contract.
5. Unauthorized Access. Contractor may not access, and shall not permit any access to, State systems, in whole or in part, whether through Contractor's Systems or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and this Schedule, and in no case exceed the scope of the State's authorization pursuant to this Section 4. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.
6. Contractor Systems. Contractor will be solely responsible for the information technology infrastructure, including all computers, hardware, networking, software, data, databases, electronic systems (including database management systems) and networks used by or for Contractor in connection with the Services ("Contractor Systems") and shall prevent unauthorized access to State systems through the Contractor Systems.
7. Security Audits. During the Term, Contractor will:
- a. maintain complete and accurate records relating to its data protection practices, IT security controls, and the security logs of any of the State's Confidential Information, including any backup, disaster recovery or other policies, practices or procedures relating to the State's

Confidential Information and any other information relevant to its compliance with this Schedule;

- b. upon the State's request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Contractor Systems and their housing facilities and operating environments; and
8. if requested by the State, provide a copy of Contractor's FedRAMP System Security Plan(s) or SOC 2 Type 2 report(s) to the State within two weeks. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.
9. **Infrastructure Scanning.** For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least once every 30 days and provide the scan's assessments to the State in a format that can be uploaded by the State and used to track the remediation. Contractor will ensure that issues identified in the scan are remediated according to the remediation time requirements documented in the State PSPs.
10. **Nonexclusive Remedy for Security Breach.** Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract for cause immediately and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

SCHEDULE E – FEDERAL PROVISIONS ADDENDUM

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

1. Equal Employment Opportunity

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

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

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules,

regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

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

2. Davis-Bacon Act (Prevailing Wage)

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

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

3. Copeland "Anti-Kickback" Act

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti-Kickback" Act ([40 USC 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- (1) Contractor. The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal

awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

4. Contract Work Hours and Safety Standards Act

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

- (1) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. Rights to Inventions Made Under a Contract or Agreement

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

6. Clean Air Act and the Federal Water Pollution Control Act

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

Clean Air Act

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

Federal Water Pollution Control Act

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

7. Debarment and Suspension

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

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

8. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in Exhibit 1 – Byrd Anti-Lobbying Certification below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

9. Procurement of Recovered Materials

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

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or

3. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

10. Additional FEMA Contract Provisions.

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

- (1) **Access to Records.** The following access to records requirements apply to this contract:
 - a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - d. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- (2) **Changes.**

See the provisions regarding modifications or change notice in the Contract Terms.
- (3) **DHS Seal, Logo, And Flags**

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- (4) **Compliance with Federal Law, Regulations, and Executive Orders**

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

(5) No Obligation by Federal Government

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

(6) Program Fraud and False or Fraudulent Statements or Related Acts

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

SCHEDULE E, EXHIBIT 1 – BYRD ANTI-LOBBYING CERTIFICATION

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

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

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date