



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 W. Allegan, Lansing, MI 48933
 P.O. Box 30028, Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **200000001498**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Blue Source, LLC
	582 Market St., Suite 1505
	San Francisco, CA 94104
	Josh Strauss
	949-231-1501
	jstrauss@bluesources.com
	VS0144770

STATE	Program Manager	David Price	DNR
		616-443-1667	
		Priced1@michigan.gov	
	Contract Administrator	Kip Conley	DNR
517-388-5956			
Conleyk1@michigan.gov			

CONTRACT SUMMARY


DESCRIPTION: Carbon Credit Consulting Services

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
8/14/20	8/13/25	10 – 1 year options	
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		NA	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
NA			
MISCELLANEOUS INFORMATION			
The terms and conditions of this Contract are those of that are a result of RFP 200000001278. In the event of any conflicts between the specifications, and terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$0.00

FOR THE CONTRACTOR:

Blue Source LLC

Company Name



Authorized Agent Signature

Joshua Strauss

Authorized Agent (Print or Type)

8/12/2020

Date

FOR THE STATE:

Signature

Kip Conley, Lead Buyer

Name & Title

Department of Natural Resources

Agency

08/12/2020

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Blue Source, LLC (“**Contractor**”). This Contract is effective on August 14, 2020 (“**Effective Date**”), and unless terminated, expires on August 13, 2025.

This Contract may be renewed for up to ten (10) additional one-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). 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: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

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

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

If to State: Kip Conley 525 W Allegan St., 3rd Floor NW Lansing MI 48909 Conleyk1@michigan.gov 517-284-5975	If to Contractor: Joshua Strauss, Vice President, 582 Market St., Suite 1505 San Francisco CA 94104 jstrauss@bluesource.com (949) 233-1501
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- 3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State: Kip Conley	Contractor: Joshua Strauss, Vice President,
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525 W Allegan St., 3rd Floor NW Lansing MI 48909 Conleyk1@michigan.gov 517-284-5975	582 Market St., Suite 1505 San Francisco CA 94104 jstrauss@bluesource.com (949) 233-1501
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a **"Program Manager"**):

State: David Price 525 W Allegan St, Lansing, MI 48909 Priced1@michigan.gov 517-284-5900	Contractor: Joshua Strauss, Vice President, 582 Market St., Suite 1505 San Francisco CA 94104 jstrauss@bluesource.com (949) 233-1501
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	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. [Coverage must not have exclusions or limitations related to sexual abuse and molestation liability.
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.
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 of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after

completion of the Contract Activities; and (c) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

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

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

7. **RESERVED.**

8. **RESERVED.**

9. **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. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

12. **Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in Schedule A, 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.

13. **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.

14. **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.

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.

16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in 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 23, 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.

17. **RESERVED.**

18. **RESERVED.**

19. **RESERVED.**

20. **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.

21. RESEVRED.

22. Stop Work Order. The State may suspend any or all activities under the Contract at any time and for any reason, including but not limited to Executive Order, budgetary reduction, other lack of funding, appropriation or budget shortfalls or legislative or legal actions that prohibit this activity. 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. During the initial feasibility evaluation and assessment portion of the project, which concludes upon the signing of a Carbon Development and Marketing Contract (CDMA), there is no penalty to the state, nor payment to the contractor because of a stop work order. After the initial feasibility evaluation and assessment phase is concluded, and upon subsequent State's commitment to proceed with full project development, if the State elects to terminate the Contract under this Section 22, the State shall pay Contractor, within 30 days of termination, the sum of all reasonable and documented expenses (including all expenses paid to 3rd party subcontractors, and not previously reimbursed, and \$10,000/month for Contractor's internal staff time less Contractor's Share of Net Proceeds previously retained under this Agreement) incurred by Contractor on this project from the end date of initial feasibility evaluation and assessment phase of the project to the date of the stop work order. The State will not pay for Contract Activities, Contractor's lost profits, or any compensation during a stop work period. If the State terminates this Contract under this Section, the State must fulfill all delivery obligations associated with third-party sales agreements put in place prior to the date of termination, may not resume carbon development services with another Contractor for the duration of the Term, and may not market or sell Emission Reduction Benefits generated by the Project for the duration of the Term.

23. 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 24, 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.

24. 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 25, 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. During the initial feasibility evaluation and assessment portion of the project, which concludes upon the signing of a Carbon Development and Marketing Contract (CDMA), there is no penalty to the state, nor payment to the contractor because of a termination of convenience. After the initial feasibility evaluation and assessment phase is concluded, and upon subsequent State's commitment to proceed with full project development, if the State elects to terminate the Contract under this Section 24, the State shall pay Contractor, within 30 days of termination, the sum of all reasonable and documented expenses (including all expenses paid to 3rd party subcontractors, and not previously reimbursed, and \$10,000/month for Contractor's internal staff time less Contractor's Share of Net Proceeds previously retained under this Agreement) incurred by Contractor on this project from the end date of initial feasibility evaluation and assessment phase of the project to the date of the termination for convenience. If the State terminates this Contract under this Section, the State must fulfill all delivery obligations associated with third-party sales agreements put in place prior to the date of termination, may not resume carbon development services with another Contractor for the duration of the Term, and may not market or sell Emission Reduction Benefits generated by the Project for the duration of the Term.

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

27. **Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
28. **Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
29. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
30. **State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.
31. **RESERVED.**
32. **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.

33. RESERVED.

34. Payment Card Industry Data Security Standard.

- a. Undertaking by Contractor. Contractors that process, transmit, store or affect the security of credit/debit cardholder data, must adhere to the Payment Card Industry Data Security Standard (PCI DSS). The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.
- b. Cooperation to Notify of Breach. The Contractor must notify the State's Contract Administrator, within 48 hours of discovery, of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. The review must validate compliance with the PCI Data Security Standard for protecting cardholder data. The Contractor must provide, at the request of the State, the results of such third-party security review. At the State's sole discretion, the State may perform its own security review, either by itself or through a PCI approved third party.
- c. Responsibilities for Costs Incurred. The Contractor is responsible for all costs incurred as the result of the breach. Costs may include, but are not limited to, fines/fees for non-compliance, card reissuance, credit monitoring, and any costs associated with a card association, PCI approved third party, or State initiated security review. Without limiting Contractor's obligations of indemnification as further described in this Contract, Contractor must 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 breach.
- d. Disposing of Cardholder Data. The Contractor must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. The Contractor must continue to treat cardholder data as confidential upon contract termination.

e. Audit by Contractor. The Contractor must provide the State's Contract Administrator with an annual Attestation of Compliance or a Report on Compliance showing the contractor is in compliance with the PCI Data Security Standard. The Contractor must notify the State's Contract Administrator of all failures to comply with the PCI Data Security Standard.

35. CEPAS Electronic Receipt Processing Standard. All electronic commerce applications that allow for electronic receipt of credit or debit card and electronic check transactions must be processed via the State's Centralized Electronic Payment Authorization System (CEPAS). To minimize the risk to the State, full credit/debit card numbers, sensitive authentication data, and full bank account information must never be stored on state-owned IT resources.

36. 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.

37. 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) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. 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.

39. Compliance with Laws. Contractor must comply with all federal, state and local laws, rules and regulations.

40. RESERVED.

41. **RESERVED.**
42. **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.
43. **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.
44. **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.
45. **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.
46. **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.
47. **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.
48. **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.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **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

Exhibit A

Carbon Development and Marketing Agreement

51. **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 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.
52. **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.
53. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
54. **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.
55. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

SCOPE

The Contractor will be required to provide consulting services for general advisory on forest carbon management strategies and policy and to support the State's possible entry in forest carbon credit markets. The contract will be at no cost to the Michigan DNR. Contractor expenses for provision of consulting services to Michigan DNR will be compensated as a fixed proportional fee deducted from revenues derived from the sale of carbon credits.

1. Requirements

1.1 General Requirements

The Contractor will work with a Michigan DNR project 'Team' and will be required to perform the following services:

- a) A project feasibility analysis of the carbon storage and marketing potential of DNR forestlands in a pilot project area consisting of the state forest Pigeon River Country management area, including but not limited to, using DNR forest inventory stand level data to conduct forest carbon stock dynamic optimization under alternative silvicultural practices.
- b) Conducting forest inventory of the pilot project area to include establishment of plots, plot measurement, and an inventory data base (based on the American Carbon Registry Standard (ACR, 2015) as an Improved Forest Management (IFM) project protocol).
- c) Modeling documentation (based on the American Carbon Registry Standard (ACR, 2015) as an Improved Forest Management (IFM) project protocol).
- d) Provision of independent third-party verification (based on the American Carbon Registry Standard (ACR, 2015) as an Improved Forest Management (IFM) project protocol).
- e) Marketing of a potential carbon credit portfolio to prospective purchasers
- f) Carbon credit registration
- g) Provision of brokerage services for sale of carbon credits
- h) Implementation, support, and overall project and change management for the entire effort.

Pending success of marketing and sale of carbon credits in the Pigeon River Country pilot project area, and at the sole discretion of the Michigan DNR, the successful Contractor will have exclusive rights for developing additional carbon credit projects in other areas of the Michigan state forest, state or game areas, or state parks.

All services will be provided consistent with SOM practices and procedures.

1.2. Transition

The Contractor must provide all project related documents and items of any kind, within their possession to the SOM within 14 days of contract expiration.

2. Service and Acceptance

2.1. Acceptance

Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in 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 23, 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.

3. Staffing

3.1. Contractor Representative

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

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

Joshua Strauss, Vice President

jstrauss@bluesource.com

(949) 233-1501

3.2. Customer Service Number

The Contractor Representative must be available for calls during the hours of 8 am to 5 pm EST.

Customer Service Number: (949) 233-1501

3.3. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.

3.4. Key Personnel

The Contractor must appoint one individual who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 24 hours.

Contractor's Key Personnel must be on-site as needed.

Below is a list of key personnel positions that must be included, at a minimum. Also listed are recommended minimum experience levels.

Key Personnel	Minimum Experience	Named Personnel
Senior Level / Firm Principal	<ul style="list-style-type: none"> 7 years of experience with carbon credit projects and markets. Experience leading/directing major accounts. 	Josh Strauss
Project Manager	<ul style="list-style-type: none"> 5 years of experience developing carbon credit projects. 	Ben Parkhurst, Liz Lott
Financial Manager	<ul style="list-style-type: none"> 5 years of experience with financial accounting for carbon credit projects 	Eric Townsend
Credit Marketing Manager		Ben Massie

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's

Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$5,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$5,000.00 credit specified above, Contractor will credit the State \$250.00 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$10,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$10,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

3.5. Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.

3.6. Disclosure of Subcontractors

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

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

The relationship of the subcontractor to the Contractor.

Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.

3.7. Security

The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks. The State may require the Contractor's personnel to wear State issued identification badges.

4. Project Plan

The Michigan DNR has identified the state forest Pigeon River Country management area as a pilot project area for potentially marketing carbon credits for forest management activities. The project plan should identify items such as the required contact personnel; the date the project plan must be submitted to the

State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information.

The Contractor will carry out this project under the direction and control of the Project Manager or Designee. The Project Plan shall be subject to final approval by the Project Manager or Designee. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

4.1 Project Plan

A. Project listing on the ACR Registry and execution of refined feasibility analysis

- Senior Level Firm Principle will lead on establishing an ACR Account on behalf of the MI DNR and work in coordination with Project Manager to draft and submit the formal Project Listing Form.
- Project Manager will liaise with DNR staff to refine the credit projections established during the Contractor's initial project feasibility assessment conducted.

B. Carbon inventory design and data collection

- Project Manager will adapt the Contractor's existing ACR forest carbon inventory methodology to best fit the particularities of the Pigeon River property. A network of CFI plot locations will be established on grid across the property.
- Project Manager will solicit bids from potential inventory subcontractors (see section 3.6) for carrying out the work and will select a subcontractor based on price, timing, and team makeup.
- Director of Forest Project Implementation will conduct on-site inventory training for the selected inventory subcontractor.
- The selected inventory subcontractor will carry out the forest carbon inventory, while frequent communicating with the Contractor's staff regarding progress and any plot issues.

C. Credit marketing (Sale of all credits)

- Project Marketing Manager and his team will reach out to the Contractor's network of voluntary market credit buyers, soliciting bids for the project's expected credit volume.
- When desirable, Project Marketing Manager will establish unit-contingent contacts with credit buyers. (As noted in section 1.1, "unit-contingent" means that the buyer agrees to purchase a fixed number of credits at a predetermined price when and if those credits become available. This de-risks the transaction from the landowner side, as they hold no liability for credit delivery if a project does not perform as expected.)

D. Carbon calculations and modeling

- Project Manager and Director of Forest Carbon Modeling will integrate the forest inventory into proprietary carbon modeling software and carryout project-scenario growth and yield modeling.
- Project Manager will work with DNR staff to design the most aggressive baseline harvest scenario feasible and will then collaborate with Director of Forest Carbon Modeling to carry out the baseline scenario carbon modeling.
- Project Manager and Director of Forest Carbon Modeling will complete the project's carbon offset quantification.

E. Project documentation drafting

- Project Manager will lead the forestry team in the completion all ACR required project documentation (e.g. GHG Plan, Monitoring Report) and the integration of the modeling team's carbon calculations into these documents.

F. Third Party Verification

- Project Manager will solicit verification bids from potential verification subcontractors (see section 3.6) and will select a subcontractor based on price, availability and team makeup.
- Project Manager will submit all project documentation and quantification materials to the verification team.
- Project Manager will hold calls with the verification team to walk them through the quantification models and answer any initial project documentation questions.
- Director of Forest Project Implementation and a representative from the inventory subcontractor crew will guide the verification team on the site audit portion of the verification process.
- The Contractor's team will collectively respond to all verifier "findings"/questions associated with the project.
- The verification team will issue a positive verification statement and report.

7. Credit registration and issuance

- The verifier submits their positive verification materials to ACR.
- ACR reviews all project documentation and verifier materials and submits questions to both the Contractor's and the verification team.
- The Contractor's team and the verifiers respond to all ACR inquiries.
- Credits are issued into the project ACR account.

8. Credit sale delivery and payment to MI DNR

- Senior Level Firm Principle transfers sold credits from the project account into the accounts of the various credit buyers that have contracted for delivery with the Project Marketing Manager.
- Payment for the credits is received by the Contractor and MI DNR.

Following first project issuance, the Contractor will manage all project monitoring, reporting, and verification activities for the life of the contract term with the DNR (an initial term of 5-years, plus 10-years ongoing participation). Verifications will be carried out annually, with site audits occurring every five years. Inventory updates will be carried on a decadal basis, with annual updates based on any harvest activities affecting the carbon inventory plots.

4.2. Meetings

The Contractor must attend the following meetings:

A kick-off meeting and monthly check-in calls between the Contractor's staff and the DNR.

4.3. Reporting

The Contractor must explain its reporting capabilities and any reporting that is included in its proposal.

The Contractor will ensure all reporting obligations are met in accordance with the ACR standard. Key reports will include:

- The project Listing Form – submitted at project initiation.
- The project GHG Plan – submitted prior to initial verification.
- The Annual Project Monitoring Form – submitted annually following the conclusion of each reporting period. (Note- Following the conclusion of the carbon development contract term, the Contractor will ensure that DNR staff is fully capable of updating the Annual Project Monitoring Form independently.)
- The ACR Annual Attestation – submitted annually at the start of the calendar year.

The Contractor will submit on behalf of the DNR will include:

- The ACR Terms of Use Agreement – submitted upon initial ACR account establishment.
- The ACR Risk Mitigation Agreement – submitted prior to initial credit issuance.

5. Pricing

5.1. Price Term

Pricing is firm for the entire length of the Contract.

6. Ordering

6.1. Authorizing Document

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

7. Revenue and Payment

7.1. Revenue and Payment

Revenue is generated following each sale of carbon offset credits. Typical offset sales occur immediately following credit issuance events. A portion of credits generated at any issuance event may be held back for sale at a later date, to achieve premium pricing. Payment is received by the Contractor from the credit purchaser within 30 days of credit delivery, and the Contractor will distribute the State's share of revenues via EFT.

Credits will be generated on an annual basis following the project's first credit issuance event.

SCHEDULE B PRICING

This Contract is commission-based pricing in accordance with Schedule A, Section 2. Service and Acceptance and Section 7. Revenue and Payment. The Contractor is paid per approved project, as a flat percentage of sold carbon credit revenue to be deducted from the carbon credit revenue.

Pricing Table:

Aggregate ERB Sales	Contractor's Share of Net Proceeds	State's Share of Net Proceeds
0 – 500,000	17%	83%
500,001 – 1,000,000	15%	85%
1,000,001 – 2,000,000	12%	88%
2,000,001 +	10%	90%

For clarity, each numeric threshold shall apply until the following threshold is reached. For example, if 600,000 ERBs are sold, Landowner would receive 83% of the Net Proceeds attributable to the first 500,000 ERBs and 85% of the Net Proceeds attributable to the next 100,000 ERBs. Additionally, the accumulation of ERBs shall accrue over the length of the Term and not reset at any time during the Term.

EXHIBIT A

CARBON DEVELOPMENT AND MARKETING AGREEMENT

This Carbon Development and Marketing Agreement (“**CDMA**”) is effective this ____ day of _____, 2020 (the “**Effective Date**”), by and between Blue Source LLC, a Utah limited liability company (“**Contractor**”) and the State of Michigan (“**State**”).

RECITALS

- A. State owns or manages property located in Michigan and is interested in developing forestry-related projects which may result in the creation of Emission Reduction Benefits as defined herein; and
- B. Contractor is in the business of identifying, creating, acquiring, aggregating, and marketing ERBs, and then aggregating such ERBs into a portfolio in order to enhance the marketability and value of such credits; and
- C. State wishes to sell to third parties, through Contractor as its exclusive marketer for the Project(s), and Contractor wishes to market the ERBs generated by State in accordance with the terms of this Agreement.

AGREEMENT

In consideration of the foregoing recitals, other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, and the mutual obligations and undertakings set forth herein, the Parties covenant and agree as follows:

ARTICLE 1

PURPOSE OF AGREEMENT

The Parties anticipate that State has and will engage in the Project(s) during the Term and in accordance with all Applicable Requirements, providing the basis for ERBs. State agrees to sell, transfer, and otherwise convey to Contractor (or, at the direction of Contractor, to a third-party purchaser) all such ERBs, pursuant to the terms of this Agreement.

ARTICLE 2

DEFINITIONS

Section 2.1 Capitalized terms not otherwise defined in this Agreement have the respective meanings assigned to them in Definitions List, which is attached hereto and is expressly incorporated herein by reference.

ARTICLE 3

SERVICES PROVIDED BY CONTRACTOR

Contractor will conduct the following activities with respect to any and all Projects, any of which may occur at various times throughout the Term:

Section 3.1 Project Development: Contractor will prepare or engage third parties to prepare such Documentation as it, in its discretion, deems necessary to document the creation of marketable ERBs from the Project(s).

Section 3.2 Validation and Verification: Contractor will engage a Verifier to Validate the Project(s) and Verify the creation of marketable ERBs.

Section 3.3 Registration. Contractor will make commercially reasonable efforts to Register the ERBs with a mutually acceptable ERB Regime.

Section 3.4 Marketing and Monetization. Contractor will make commercially reasonable efforts to market and monetize ERBs arising out of all Projects.

Section 3.5 Expenses. Contractor shall pay for Expenses at the time they are incurred but shall be reimbursed for such Expenses in accordance with this Agreement.

ARTICLE 4

STATE' S DUTIES AND OBLIGATIONS

Section 4.1 State shall provide reasonable access to the Subject Properties and documents related to the Project(s), the Subject Properties, and related ERBs in order for Contractor to provide its Services.

Section 4.2 State shall notify Contractor promptly upon the discovery of an occurrence that would materially affect State's representations, warranties or covenants set forth in Article 7.

Section 4.3 Pursuant to Contractor's request, State shall execute documents required under the applicable ERB Regime or Registry to list or Register the Project or in order for ERBs to be issued.

ARTICLE 5

TITLE; EXCLUSIVE MARKETING RIGHTS

Section 5.1 State hereby grants, conveys, and transfers to Contractor title to and the exclusive right to market, throughout the Term, all ERBs created from the Project as a result of actions taken during the Term, including but not limited to ERBs created after the Term as a result of actions taken during the Term. To the extent necessary to accomplish the intent of the foregoing sentence, State shall take all necessary steps to grant, convey, and transfer all such ERBs to Contractor on the date the ERBs are Registered, on the Delivery Date, or on any other date specified by Contractor, in its sole discretion.

Section 5.2 Contractor shall have discretion to determine which ERBs (including vintage and reporting periods) will produce sufficient magnitude and quality to be pursued for Verification and sale or transfer as ERBs pursuant to this Agreement.

Section 5.3 Contractor may aggregate and market State's ERBs with ERBs created by other suppliers of either similar or unrelated credits, as Contractor deems appropriate as a function of Contractor's portfolio management.

ARTICLE 6

PRICE AND PAYMENT TERMS

Section 6.1 With respect to ERBs issued and Sold pursuant to a Third Party Sale Agreement(s), Contractor shall pay, and shall retain the percentages of Net Proceeds as identified in Table 1:

Table 1.

Aggregate ERB Sales	Contractor's Share of Net Proceeds	State's Share of Net Proceeds
0 – 500,000	17%	83%
500,001 – 1,000,000	15%	85%
1,000,001 – 2,000,000	12%	88%
2,000,001 +	10%	90%

For clarity, each numeric threshold shall apply until the following threshold is reached. For example, if 600,000 ERBs are sold, Landowner would receive 83% of the Net Proceeds attributable to the first 500,000 ERBs and

85% of the Net Proceeds attributable to the next 100,000 ERBs. Additionally, the accumulation of ERBs shall accrue over the length of the Term and not reset at any time during the Term.

Section 6.2 Prior to any distribution of Net Proceeds, Contractor shall deduct from applicable Proceeds an amount sufficient to reimburse Expenses incurred by Contractor relating to the Project;

Section 6.3 Contractor shall pay State's Share of Net Proceeds within thirty (30) days of Contractor's receipt of Proceeds from Contractor's sale of each ERB; and

Section 6.4 For clarification, Contractor shall have the right, throughout the Term, to market and sell all ERBs created from the Project as a result of actions taken during the Term.

ARTICLE 7

STATE'S WARRANTIES, REPRESENTATIONS AND COVENANTS

As of the Effective Date and through the end of the Term, State represents, warrants and covenants that:

Section 7.1 It has good and marketable title to the Subject Property(ies) and to all ERBs arising out of all Projects, and such ERBs are free and clear of all encumbrances of any kind;

Section 7.2 Data provided to Contractor or its authorized representatives is and shall be true, accurate and complete to the best of the State's knowledge;

Section 7.3 State shall not conduct any activities that will result in a Material Reduction of ERBs;

Section 7.4 ERBs Sold by or available for sale to Contractor pursuant to this Agreement shall not be used by State for any purpose, and State shall not sell, transfer, or made available such ERBs to any other person or entity for any purpose, unless Contractor is compensated in accordance to the terms of this contract;

Section 7.5 Throughout the Term, the Subject Properties and the Project(s) have been, are, and shall continue to be in compliance with all Applicable Requirements and Applicable Laws;

Section 7.6 When necessary to comply with a Third Party Sale Agreement, State, at Contractor's request and in compliance with this Agreement, shall transfer the applicable ERBs as required by this Agreement and any Third Party Sale Agreement and shall execute any additional documents reasonably required to sell or transfer the ERBs pursuant to such Third Party Sale Agreement.

ARTICLE 8

ACCESS TO INFORMATION; MAINTENANCE OF RECORDS; FURTHER ACTION

Section 8.1 Due Diligence. Upon reasonable notice, State shall provide Contractor, its representatives, and third parties reasonably identified by Contractor (such as Verifiers or potential purchasers of ERBs created pursuant to this Agreement) with access to the Project, to the Subject Properties, and to all Emission Reduction Benefit-related documents, records, reports, and data reasonably necessary to Document, Verify, or sell, as the case may be, the quantity, quality, validity, or acceptability of the ERBs or the Project.

Section 8.2 State's Records Regarding Project Performance. State shall maintain records reasonably necessary to establish the validity of the ERBs sold pursuant to this Agreement, including but not limited to records regarding thinning and harvesting on the Subject Properties, title to the Subject Properties, and any deeds applicable to the Subject Properties. State shall make such records available for inspection upon reasonable advance notice from Contractor, its agents, and Contractor's transferees at reasonable times and places. State shall also make such records available to the applicable ERB Regime or Registry or any other governmental or regulatory body with competent jurisdiction over the ERBs being sold. Such records shall be maintained for (i) eight years after the date of issuance of the ERBs or (ii) such other period as may

be required by the applicable ERB Regime or registry or a third party sale agreement (provided Contractor gives written notice to State of such requirement), whichever is longer.

Section 8.3 Contractor's Records Regarding Transactions. Contractor shall keep and maintain records of all sales terms, deal valuations, and documentation necessary for Contractor to complete the sale and transfer of ERBs transferred to Contractor by State and by Contractor to any third party. These records shall be kept for (i) eight years after the date of issuance of the ERBs or such other period as may be required by the applicable ERB Regime or (ii) a third party sale agreement, whichever is longer and shall be made available to State for inspection during regular business hours upon reasonable advance notice.

ARTICLE 9

RESERVATIONS REGARDING PROJECT DEVELOPMENT

Section 9.1 STATE MAKES NO REPRESENTATION OR WARRANTY AS TO THE NUMBER OF ERBS WHICH MAY BE GENERATED AS A RESULT OF ANY PROJECT; AND

Section 9.2 CONTRACTOR MAKES NO REPRESENTATION OR WARRANTY AS TO THE CREATION OF ERBS AT THE PROJECT OR THE MARKETABILITY OR VALUE TO BE REALIZED AS A RESULT OF CONTRACTOR'S SALE OF SUCH ERBS.

ARTICLE 10

TERMINATION

Section 10.1 Termination Upon Breach. If either Party fails to perform any material obligation in this Agreement or breaches any material representation or warranty during the Term of this Agreement, the non-breaching Party shall notify the other Party in writing of the breach and provide the breaching Party with a 30-day period to cure such breach. If, following such cure period, the breach remains uncured, the non-breaching Party shall have the right to terminate this Agreement, either with respect to the Project to which the breach occurred or in its entirety, as the case may be, pursuant to this Article 10.

Section 10.2 Remedies for State's Breach. If Contractor terminates this Agreement due to breach of this Agreement by State, State shall pay Contractor:

(a) the sum of all reasonable and documented Expenses incurred by Contractor on this project not previously reimbursed, from the end date of initial feasibility evaluation and assessment phase of the project to the date of the termination, plus

(b) \$10,000/month for Contractor internal staff time from the end date of initial feasibility evaluation and assessment phase of the project to the date of the termination, less Contractor's Share of Net Proceeds actually retained under this Agreement.

Section 10.3 Termination Due to Economic Unfeasibility. If Contractor, in its sole discretion, determines at any time that any Project is economically unfeasible, Contractor may terminate this Agreement with respect to such Project upon ninety days written notice. State shall have no liability for, and Contractor shall be responsible for, all Expenses incurred by Contractor related to such Project, and neither Party shall have any further obligation to proceed under this Agreement with respect to such Project. Contractor shall transfer to State all ERBs arising from the Project that have not otherwise been Sold or transferred to another third party.

ARTICLE 11

PROVISIONS SURVIVING EXPIRATION AND TERMINATION

Notwithstanding the termination or expiration of this Agreement and the provisions of Article 8, Article 9, Article 10, and any provisions necessary to enforce such provisions shall survive for a period of eight years following the last issuance of any ERBS arising from the Project during the Term.

IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Agreement on the date first written above.

BLUE SOURCE, LLC

STATE OF MICHIGAN

By:
Its:

By:
Its:

DEFINITIONS LIST

a. **"Applicable Laws"** means, collectively, any statute, ordinance, judicial decision, executive order, or a regulation or regulatory order or protocol having the force and effect of law that is applicable to the Subject Properties and/or the Project.

b. **"Applicable Requirements"** means, collectively, the requirements of Validation, Verification, Registration, and issuance under the applicable the ERB Regime and applicable registry; requirements applicable to State under the Terms of Use Agreement and/or the Forest Project Protocols or Plans issued by the applicable ERB Regime or Registry; and all securities laws, if any, and blue sky laws, if any, and other legal requirements applicable to the offering of ERBs, if any.

c. **"Contractor's Share of Net Proceeds"** means the applicable percentage of Net Proceeds for Contractor set forth in Article 6.

d. **"Delivery Date"** means the date(s) which Contractor notifies State the ERBs shall be transferred to a third party purchaser from Contractor.

e. **"Document," "Documenting,"** and **"Documentation"** means, as appropriate in the context in which such terms are used, either (i) the preparation of all documents pertaining to reductions or avoidance of GHG emissions associated with the Project as are required in order to obtain Validation, Verification, or Registration of such emission reductions and Registration of the ERBs pertaining thereto, or (ii) all documents prepared for such purposes.

f. **"Emission Reduction Benefit" or "ERB"** means all benefits and all associated rights, title, and interest, without limitation, in or arising out of the environmental and financial benefits associated with the avoidance of Greenhouse Gas emissions, whether such right, benefit, title, or interest is in existence as of the date of this Agreement or arises thereafter, including, without limitation, any emission reduction credits, verified emission reductions, voluntary emission reductions, offsets, allowances, voluntary carbon units, avoided compliance costs, emission rights and authorizations, including any Reporting Rights.

g. **"ERB Regime"** means any ERB registry, trading system, or reporting or reduction program for ERBs that is established, certified, maintained, or recognized by any international, governmental (including United Nations, United States, state, or local legislative, administrative, judicial, or other body), or non-governmental agency from time to time.

h. **"Expenses"** means all costs payable to any third party as a consequence of Contractor's pursuit of, entering into, or performance of its obligations related to this Agreement and shall include, but not be limited to, the following: (1) costs related to Documenting, Validating, Verifying, or Registering ERBs (including any related engineering expenses); (2) transaction or transfer fees; and (3) any other third party costs or expenses that are reasonably incurred by Contractor in performing its obligations under this Agreement.

i. **"GHG Reduction"** means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

j. **"GHG Removal"** means the calculated total mass of a GHG removed from the atmosphere over a specified period of time.

k. **"GHG Removal Enhancement"** means a calculated increase in GHG Removals relative to a project baseline.

l. **"Greenhouse Gas" or "GHG"** means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substance or combination of substances that may become regulated or designated as GHGs under (i) any federal, state or local law or regulation, or (ii) any ERB Regime, in each case measured in increments of one metric tonne of carbon dioxide equivalent.

m. **"Material Reduction"** means any reduction in ERBs, as determined by Contractor, arising from voluntary activities by State that result in harvest levels (quantified in cords, MBF, etc.) exceeding the projected harvests on the Project area provided to Contractor by State prior to the initial Project Verification by 10% or more. Contractor will confirm these harvest levels with State, in writing, prior to commencement of initial Project Verification, and the Parties may mutually agree to revise or amend the projected harvest levels

at any time thereafter, provided that any such revision or amendment must be in writing and signed by both Parties.

- n. **"Net Proceeds"** means the Proceeds less Expenses.
- o. **"Parties"** means Contractor and State collectively and their respective successors and assigns, and **"Party"** means either of them and its successors and assigns.
- p. **"Proceeds"** shall be the total cash amount received by Contractor from a third party pursuant to a Third Party Sale Agreement as payment for Contractor's sale of ERBs obtained from State pursuant to this Agreement.
- q. **"Project"** means all of State's efforts, without limitation, to create ERBs from improved forestry management or avoided conversion activities on the associated Subject Property.
- r. **"Project Listing Date"** means the date that a Project is listed with an applicable registry.
- s. **"Registration," "Register,"** or **"Registering"** means the obtaining of any and all necessary recognition, registration, credit, approval, and/or (to the extent obtainable) certification of a Project's ERBs as ERBs under the applicable ERB Regime, and includes any required payment of fees for the delisting, retirement, or transfer of ERBs.
- t. **"Reporting Period"** means a specific period of time within the Term. The first Reporting Period shall begin on the Effective Date and shall continue for a time period to be agreed upon by the Parties, provided that the first Reporting Period shall be for no less than six and no more than 24 months. All subsequent Reporting Periods shall begin on the day immediately following the last day of the immediately preceding Reporting Period and shall continue for one year; provided that the final Reporting Period shall be adjusted, if necessary, so that the final Reporting Period shall end on the last day of the Term.
- u. **"Reporting Rights"** means the exclusive right to claim and/or report the benefits of any ERB to any governmental or private entity, including the exclusive rights to claim and/or report the benefits of any form of acknowledgement or certification related to the ERBs arising from a Project by any government agency or other entity, whether arising under local, state, national, or international laws or regulations relating to climate change or otherwise.
- v. **"Sold"** means transferred to a third party by Contractor pursuant to a Third Party Sale Agreement and from which Proceeds are actually received by Contractor from such third party.
- w. **"State's Share of Net Proceeds"** means the applicable percentage of Net Proceeds for the State set forth in Article 6.
- x. **"Subject Property(ies)"** means the property identified as the Pigeon River Country State Forest is the appropriate term here.
- y. **"Term"** commences on the Effective Date and continues through June 30, 2025. This CDMA may be renewed in writing signed by both Parties for up to ten (10) additional one-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this CDMA.
- z. **"Third Party Sale Agreement"** means an agreement of sale between Contractor and a third party (i.e., not a Party or an affiliate of Contractor) that provides for the transfer sale of ERBs subject to this Agreement to such third party in return for a cash payment by such Third Party to Contractor.
- aa. **"Validation," "Validate,"** or **"Validating"** means the confirmation by a Verifier that the Project and Greenhouse Gas emission reductions associated with a Project will qualify as ERBs.
- bb. **"Verification," "Verify,"** or **"Verifying"** means the confirmation by a Verifier of the quantity of Greenhouse Gas emission reductions resulting from a Project during a stipulated time period.
- cc. **"Verifier"** means an independent person or entity that meets professional qualification, independence, and other requirements prescribed by the applicable ERB Regime or Registry to Validate or Verify GHG emission reductions or projects.