

**IT MASTER AGREEMENT**

DATE: 6/6/2025

CONTRACT AMOUNT: \$0.00

ADVANTAGE CONTRACT #: MA 18P 250605*0148

DEPARTMENT AGREEMENT #:

START DATE: July 1, 2024

END DATE: June 30, 2026

This Contract is between the following State of Maine Department and Provider:

STATE OF MAINE DEPARTMENT (the "Department")

DEPARTMENT NAME: Department of Administration and Financial Services, Office of Information Technology

ADDRESS: 51 Commerce Drive, 145 SHS

CITY: Augusta

STATE: ME

ZIP CODE: 04333-0145

PROVIDER

PROVIDER NAME: Environmental Systems Research Institute, Inc. ("Esri")

ADDRESS: 380 New York Street

CITY: Redlands

STATE: CA

ZIP CODE: 92373-8100

PROVIDER'S VENDOR CUSTOMER #: VS0000000316

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

DAFS – Office of State Procurement Services

DocuSigned by:

David Morris

6/18/2025

2A644AF5681F482...

BY: **David Morris, CPO****Date****Provider Representative:**

Signed by:

Annette Kazandjian

21FBD55545E6449...

BY: **Annette Kazandjian, Managing Business Attorney****Date** 6/13/2025**Department of Administrative and Financial Services, Office of Information Technology:**

DocuSigned by:

Nicholas Marquis

6/17/2025

A29C99359A37464...

BY: **Nicholas Marquis, Chief Information Officer****Date**

Upon final approval by the Division of Procurement Services, a case details page will be made part of this contract.

DEPARTMENT AND PROVIDER POINT OF CONTACT

AGREEMENT ADMINISTRATOR: The following person is designated as the Agreement Administrator on behalf of the Department for this Contract.

| | |
|------------------------------------------------------------------|-------------------------|
| NAME: Clarence Young, Systems Group Manager, Maine Office of GIS | |
| EMAIL: Clarence.Young@maine.gov | TELEPHONE: 207-480-0369 |

PROCUREMENT SERVICE MA MANGER: The Procurement Services MA Manager manages the MA contract documents. All other communication is to be with the agency the services were provided to.

| | |
|---------------------------------------------------------------------------------|------------|
| NAME: Justin Franzose, Procurement Analyst II | |
| EMAIL: Justin.Franzose@maine.gov | TELEPHONE: |

VENDOR CONTACT: The vendor contact person will help consumers place orders, inquire about orders that have not been delivered, all shipping issues, quality issues and any issues pertaining to the Master Agreement (MA) contract. All orders not submitted through a Delivery Order will be sent through the vendor contact person. The vendor contact person for this MA is:

| | | |
|---------------------------------------------------------------|-------------------------|-----------------|
| NAME: Paul E. Rooney, Regional Sales Manager | | |
| EMAIL: prooney@esri.com | TELEPHONE: 617-513-0775 | |
| ADDRESS: 35 Village Rd #501 | | |
| CITY: Middleton | STATE: MA | ZIP CODE: 01949 |

Any changes to the individuals identified above may be changed at any time through written notice by either party.

TABLE OF RIDERS

The following riders are hereby incorporated into this Contract and made part of it by reference.

| | |
|-------------------------------------|----------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | RIDER A – Specifications of Work to be Performed under Maine/Esri Enterprise Agreement |
| <input checked="" type="checkbox"/> | RIDER B-IT – Payment and Other Provisions |
| <input checked="" type="checkbox"/> | RIDER C - Exceptions |
| <input checked="" type="checkbox"/> | RIDER G - Debarment, Performance, and Non-Collusion Certification |
| <input checked="" type="checkbox"/> | RIDER H - Identification of Country in Which Contracted Work will be Performed |
| <input checked="" type="checkbox"/> | ATTACHMENT A – Esri Price Catalog |
| <input checked="" type="checkbox"/> | ATTACHMENT B – ITS75 Full Contract |

RIDER A: SPECIFICATIONS OF WORK TO BE PERFORMED

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I. INTRODUCTION/OVERVIEW:

The purpose of this Contract is to enable Esri to deliver the scope of licensed solutions, SAAS and consulting support services as governed under the regional ITS75 competitive contract in which competitive bid process Maine participated. ITS75 forms the basic terms and conditions for the regional framework and Rider B-IT referenced in the Maine IT-SC vehicle augments those T&C items so that it includes the terms and policies specific to Maine. These items are included in the total contract governance as indicated in ITS75 section 3.6.4 where the IT-SC form is the most recent update to Maine BP54-IT, Agreement to Purchase Services.

II. CONTRACT PERIOD:

Start July 1, 2024 through June 30, 2026 (the "Term")

III. AUTHORIZED USER:

State of Maine Departments authorized to utilize this MA contract:

DAFS / OIT / Maine Office of GIS

Municipalities, political subdivisions, and school districts in Maine:

- ☒ Are NOT permitted to utilize this MA.
- ☐ Are permitted to utilize this MA as written.
- ☐ Are permitted to utilize this MA with the following conditions:

IV. ORDERING PROCEDURES:

Delivery Orders (DO) will be created in AdvantageME for all orders from State Agencies. All DOs must include a quote for the commodities and/or services provided. For a quote that includes implementation services, a project specific Statement of Work/Task Order may be required to be attached to the Delivery Order. DO's over \$5,000 will be emailed to the vendor's email address referenced on the MA as a .pdf file.

V. SPECIFICATIONS/SCOPE OF WORK:

1. The Provider shall provide Maine Office of GIS (MEGIS) the ability to enable Maine department users access to Esri software and solutions as well as support and consulting services as specified in this Agreement developed in consultation with the Maine Office of GIS.
2. A catalog of available solutions complete with license costs or service rates is also an exhibit to this vehicle to enable the State to purchase additional items if needed while being able to plan and manage costs to acquire these additional items. Updates to this catalog will be provided during the performance period as necessary to stay current with Esri offerings or price changes.

DELIVERABLES: The Provider shall provide products and services in accordance with this Agreement. Additional purchases made on behalf of Maine State agencies as detailed in the Esri catalog Pricing and as determined by the Agreement Administrator may be executed under this vehicle during the period of service. Only the Agreement Administrator or his named designee may authorize additional Delivery Orders.

VI. TECHNICAL REQUIREMENTS:

- A. ACCESSIBILITY: All IT products must be accessible to persons with disabilities and must comply with State Accessibility Policy and Standards and the Americans with Disabilities Act. All IT applications must comply with the Digital Accessibility Policy (<https://www.maine.gov/oit/policies/DigitalAccessibilityPolicy.pdf>). All IT applications and content delivered through web browsers must comply with the State Web Standards

For the avoidance of doubt, Provider will conform with the above listed policies and standards to the extent such policies and standards align with the American with Disabilities Act ("ADA") and Federal Section 508 of the Rehabilitation Act. The obligations in the prior sentence are subject to the following: Due to ambiguity as to the applicable standard for website and software accessibility compliance under Titles 2 and 3 of the ADA, and in connection with the furnishing of Products under this Agreement, Esri discloses its Products' accessibility capabilities in its Accessibility Conformance Reports (ACRs) available at <https://www.esri.com/en-us/accessibility/conformance-reports>. Some of Esri's products carry a partial exception or other exception status in the Conformance Level column of the ACR. Esri is not required to remediate non-compliances expressly disclosed in its ACR. Provider warrants the accuracy of its ACRs as of the date of signature of this Agreement.

- B. STATE IT POLICIES: Provider's ArcGIS Online as U.S.-based operations delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (<https://www.maine.gov/oit/policies-standards>) to the extent that such IT Policies, Standards and Procedures align with applicable FedRAMP Moderate security requirements and NIST SP 800-53 security controls and with the terms and conditions of the Data Privacy Addendum in Attachment B – General Terms and Conditions of the Rider R – ITS75 Full Contract, Article B.7.4 – Privacy.

RIDER B-IT: METHOD OF PAYMENT AND OTHER PROVISIONS

1. **BENEFITS AND DEDUCTIONS:** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
2. **INDEPENDENT CAPACITY:** In the performance of this Agreement, the Provider shall act in the capacity of an independent contractor and not as an employee or agent of the State.
3. **CHANGES IN THE WORK:** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.
4. **SUBCONTRACTORS:** The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Agreement. The approval of the Department for the Provider to subcontract for work under this Agreement shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Agreement. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless the Department from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.

5. **SUBLETTING, ASSIGNMENT OR TRANSFER:** The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Agreement, or any portion thereof, or of its right, title, or interest therein, without the written approval of the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work under this Agreement.
6. **EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of this Agreement, the Provider certifies as follows:
 1. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a *bona fide* occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
3. The Provider shall send to each labor union, or representative of the workers, with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.
4. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights, etc.) against itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.
5. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment, and in the provision of service, to include accessibility and reasonable accommodations for employees and clients.
6. Contractors and Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.
7. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
7. **EMPLOYMENT AND PERSONNEL:** The Provider shall not engage on a full-time, part-time or other basis during the period of this Contract, any executive employee who participated in any way in the solicitation, award or administration of this Agreement according to [MRS Title 5 §18-A, 2](#) and in harmony with [MRS Title 17 §3104](#). Any contract made in violation of these sections is void.
8. **NO SOLICITATION:** The Provider certifies that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement, and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Agreement. For breach or violation of this provision, the Department shall have the right to terminate this Agreement without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

9. ACCOUNTING, RECORDS, AND AUDIT:

1. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, and for a period of five (5) years following termination or expiration of the Agreement. If any litigation, claim or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the agreement have been resolved.
2. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.
3. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.
4. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Agreement period. During the five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.
5. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Agreement which have been disallowed in the audit exception.
6. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.
7. **ACCESS TO PUBLIC RECORDS** - As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This

subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

10. TERMINATION: The performance of work under this Agreement may be terminated by the Department in whole or in part, whenever, for any reason the Agreement Administrator shall determine that such termination is in the best interests of the Department. Any such termination shall be effected by the delivery to the Provider of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination and modified accordingly.

Upon receipt of the Notice of Termination, the Provider shall:

1. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination;
2. Take such action as may be necessary, or as the Agreement Administrator may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of the Provider, and in which the Department has, or may acquire, an interest;
3. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination;
4. Assign to the Department in the manner, and to the extent directed by the Agreement Administrator, all of the rights, titles, and interests of the Provider under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
5. With the approval of the Agreement Administrator, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement;
6. Transfer title to the Department (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Agreement Administrator, equipment and products purchased pursuant to this Agreement, and all files, source code, data manuals, or other documentation, in any form, that relate to all the work completed, or in progress, prior to the Notice of Termination;
7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
8. Proceed immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Provider.

11. GOVERNMENTAL REQUIREMENTS: The Provider shall comply with all applicable governmental ordinances, laws, and regulations.

12. GOVERNING LAW: This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against the Department regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.

13. STATE HELD HARMLESS: The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

14. LIMITATION OF LIABILITY: The Provider's liability to the Department, for damages sustained by the Department, as the result of Provider's default, or acts, or omissions, in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be the greater of any actual direct damages, up to the limits of the insurance required herein, or three times the value of the Product or Service that is the subject of this Agreement, up to a maximum of \$25,000,000, but not less than \$400,000.

For instance, if this Agreement is valued at \$15,000,000, then the Provider's liability is up to \$25,000,000. But if this Agreement is valued at \$100,000, then the Provider's liability is no greater than \$400,000.

Notwithstanding the above, Provider shall not be liable to the Department for any indirect or consequential damages not covered by any of the insurances required herein.

15. NOTICE OF CLAIMS: The Provider shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.

16. APPROVAL: This Agreement must be approved by the State Controller and the State Purchases Review Committee before it can be considered a valid enforceable document.

17. INSURANCE REQUIREMENTS: The Provider shall procure and maintain insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection to, the fulfillment of this Agreement, by the Provider, its agents, representatives, employees, or Subcontractors. The insurance shall be secured by the Provider, at the Provider's expense, and maintained in force, at all times during the term of this Agreement, and, for any claims-made (as opposed to occurrence-based) policy(ies), for a period of not less than two (2) years thereafter.

1. Minimum Coverage

- a) Errors & Omissions, or Professional Liability Insurance, or Insurance by any other name, covering the following:

- A. All acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret) in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate;
- B. Network security and privacy risks, including, but not limited to, unauthorized access, failure of security, breach of privacy, wrongful disclosure, collection, or other negligence in the handling of confidential information, related regulatory defense, and penalties in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate;
- C. Data breach expenses, in an amount not less than (*see NOTE below and insert the appropriate limit based upon the number of Personally Identifiable Information records*) \$(Amount will vary and will be equivalent to the total cost of the given purchase order), and payable, whether incurred by the Department or the Provider; for and on behalf of the Department, including, but not limited to:
 - C.1) Consumer notification, whether or not required by law;
 - C.2) Forensic investigations;
 - C.3) Public relations and crisis management fees; and
 - C.4) Credit or identity monitoring, or similar remediation services.

The policy shall affirm coverage for contingent bodily injury and property damage arising from the failure of the Provider's technology services, or an error, or omission, in the content of, and information from, the Provider. If a sub-limit applies to any element of the coverage, the certificate of insurance must specify the coverage section and the amount of the sub-limit.

NOTE: *Personally Identifiable Information (PII) is information that can be used to identify a single person, such as name, social security number, date and place of birth, mother's maiden name, driver's license, biometrics, etc. Maine State law also has a more specific definition in 10 M.R.S. §1347(6). The Data Breach component of the Insurance (per occurrence) is pegged to the number of PII records that are the subject of this Agreement.*

| Number of PII Records | Insurance per Occurrence |
|----------------------------------|---------------------------------|
| <i>1 through 3,000</i> | <i>\$400,000</i> |
| <i>3,001 through 100,000</i> | <i>\$1,000,000</i> |
| <i>100,001 through 1,000,000</i> | <i>\$5,000,000</i> |
| <i>Greater than 1,000,000</i> | <i>\$10,000,000</i> |

- b) Workers' Compensation and employer's liability, as required by law;
- c) Property (including contents coverage for all records maintained pursuant to this Agreement): \$1,000,000 per occurrence;
- d) Automotive Liability of not less than \$400,000 per occurrence single limit if the Provider will use vehicles to fulfill the contract;
- e) Crime, in an amount not less than \$(Amount will vary and will be equivalent to the total cost of the given purchase order), (*The total monetary amount potentially at risk due to this contract; or Cash Currency and Negotiable Securities actually entrusted to this Provider*); and

- f) Business Interruption, in an amount that would allow the Provider to maintain operations in the event of a Property loss.

2. **Other Provisions** - Unless explicitly waived by the Department, the insurance policies shall contain, or be endorsed to contain, the following provisions:

- a) The Provider's insurance coverage shall be the primary and contributory. Any insurance or self-insurance maintained by the Department for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
- b) The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- c) The Provider shall furnish the Department with certificates of insurance, and with those endorsements, if any, affecting coverage, required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Department before this Agreement commences. The Department reserves the right to require complete, certified copies of all required insurance policies at any time.
- d) All policies should contain a revised cancellation clause allowing thirty (30) days notice to the Department in the event of cancellation for any reason, including nonpayment.
- e) The Department will not grant the Provider, or any sub-contractor of the Provider, "Additional Insured" status and the Department will not grant any Provider a "Waiver of Subrogation".

18. NON-APPROPRIATION: Notwithstanding any other provision of this Contract, if the State does not receive sufficient State, Federal, or other sources of funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from State or Federal legislative, executive or judicial bodies, then the State is not obligated to make payment under this Contract.

19. SEVERABILITY: The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

20. INTEGRATION: In the event of a conflict between the documents comprising this Agreement, the Order of Precedence shall be:

- Rider C Exceptions to Rider B-IT
- Rider B-IT Terms and Conditions
- Rider A Scope of Work – Maine/Esri Enterprise Agreement
- Rider G Debarment, Performance, and Non-Collusion Certification
- Rider H Identification of Country in which contracted work will be performed
- ATTACHMENT A: Esri License and Service Price Catalog for Maine
- ATTACHMENT B: ITS75 Full Contract

21. FORCE MAJEURE: Either party may be excused from the performance of an obligation under this Agreement in the event that performance of that obligation by a party is prevented by an act of God, act of war, riot, fire, explosion, flood, or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, strike or

labor dispute, provided that any such event, and the delay caused thereby, is beyond the control of, and could not reasonably be avoided by that party. Upon the occurrence of an event of force majeure, the time period for performance of the obligation excused under this section shall be extended by the period of the excused delay, together with a reasonable period, to reinstate compliance with the terms of this Agreement.

22. SET-OFF RIGHTS: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

23. INTERPRETATION OF THE AGREEMENT:

1. Reliance on Policy Determinations - The Department shall determine all program policy. The Provider may, from time to time, request the Department to make policy determinations, or to issue operating guidelines required for the proper performance of this Agreement, and the Agreement Administrator shall respond in writing in a timely manner. The Provider shall be entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Agreement, or in any agreement, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.
2. Titles Not Controlling - Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.
3. No Rule of Construction - This is a negotiated Agreement and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

24. PERIOD OF WORK: Work under this Agreement shall begin no sooner than the date on which this Agreement has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Agreement shall expire on the date set out on the first page of this Agreement, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Agreement, including performance of any warranty and/or maintenance agreements, whichever is the later date.

25. NOTICES: All notices under this Agreement shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for

notification purposes by giving written notice of the change and setting forth the new address and an effective date.

26. ADVERTISING AND PUBLICATIONS: The Provider shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Agreement Administrator. Should this Agreement be funded, in whole or in part, by Federal funds, then in compliance with the Steven's Amendment, it will be clearly stated when issuing statements, press releases, requests for proposals, bid solicitations, and other documents: (1) the percentage of the total cost that was financed with Federal moneys; and (2) the dollar amount of Federal funds.

27. CONFLICT OF INTEREST: The Provider certifies that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of its services hereunder. The Provider further certifies that in the performance of this Agreement, no person having any such known interests shall be employed.

28. LOBBYING:

1. Public Funds - No Federal or State-appropriated funds shall be expended by the Provider for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress or State Legislature, an officer or employee of Congress or State Legislature, or an employee of a member of Congress or State Legislature, in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this Agreement fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.
2. Federal Certification - Section 1352 of Title 31 of the US Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as the Department) certifies that no Federal funds will be used to lobby or influence a Federal officer or member of Congress.

The certification the Department has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including sub-agreements, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

3. Other Funds - If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this section, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form to the Department.

29. PROVIDER PERSONNEL:

1. The parties recognize that the primary value of the Provider to the Department derives directly from its Key Personnel assigned in the performance of this Agreement. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in

accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.

2. The Department shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in the Department's judgment, are not appropriate for the performance of this Agreement. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.
3. During the course of this Agreement, the Department reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by the Department. In considering the Provider's employees' acceptability, the Department shall act reasonably and in good faith.
4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.
5. During the course of this Agreement, the Department reserves the right to require a background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Agreement.

30. STATE PROPERTY: The Provider shall be responsible for the proper custody and care of any Department or State-owned property furnished for the Provider's use in connection with the performance of this Agreement, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted.

31. PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS:

1. The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Agreement do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.
2. The Provider may not publish or copyright any data without the prior approval of the Department. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

32. PRODUCT WARRANTY: The Provider expressly warrants its products and services for one full year from their final written acceptance by the Department. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

33. OPPORTUNITY TO CURE: The Agreement Administrator may notify the Provider in writing about the Department's concerns regarding the quality or timeliness of a deliverable. Within five (5) business days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. The Department's exercise of its rights under this provision shall not be construed as a waiver of the Department's right to terminate this Agreement pursuant to Section 13, Termination.

34. COVER: If, in the reasonable judgment of the Agreement Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.

35. CONFIDENTIALITY:

1. All materials and information given to the Provider by the Department, or acquired by the Provider on behalf of the Department, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.
2. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and the Department shall take all necessary steps to protect confidential information regarding all persons served by the Department, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Department, or whose information is utilized in order to accomplish the purposes of this Agreement.
3. In the event of a breach of this confidentiality provision, the Provider shall notify the Agreement Administrator immediately.
4. The Provider shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

36. OWNERSHIP:

1. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Agreement are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Agreement, or equipment and products purchased pursuant to this Agreement. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws.
2. Upon termination of this Agreement for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

37. CUSTOM SOFTWARE: For all custom software furnished by the Provider as part of this agreement, the following terms and conditions shall apply:

1. The Department shall own all custom software. The Department shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all custom software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Agreement.
2. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.

38. OFF-THE-SHELF (OTS) SOFTWARE: For all OTS software purchased by the Provider as part of this Agreement, the following terms and conditions shall apply.

1. This Agreement grants to the Department a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. The Department agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at the Department's site, at mutually agreed upon times. In the event that a separate license agreement accompanies the OTS software, then the terms of that separate license agreement supersede the above license granted for that OTS software.
2. This Agreement does not transfer to the Department the title to any intellectual property contained in any OTS software. The Department will not decompile or disassemble any OTS software provided under this Agreement, or modify any OTS software that bears the copyright notice of a third party. The Department will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.
3. If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.

39. SOFTWARE AS SERVICE: When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:

1. The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of the Department's

data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.

2. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:
 - a) The Provider has failed to carry out its obligations set forth in this Agreement; or
 - b) A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or
 - c) The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or
 - d) The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or
 - e) A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.
3. The Provider is responsible for all fees to be paid to the Escrow Agent.
4. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

40. THIS ITEM IS INTENTIONALLY LEFT BLANK

41. ENTIRE AGREEMENT: This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to this Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this Agreement, or to exercise an option or election under this Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option, or election, but the same shall continue in full force and effect. Use of one remedy shall not waive the Department's right to use other remedies. Failure of the Department to use a particular remedy for any breach shall not be deemed as a waiver for any subsequent breach. No waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedies under this Agreement.

42. CYBERSECURITY AND PROHIBITED TECHNOLOGIES: Through the execution of this Contract, the Provider certifies that the aforementioned organization, its principals and any subcontractors named in this Contract:

- A. is not a foreign adversary business entity, <https://www.maine.gov/oit/prohibited-technologies>, Title 5 MRSA §2021 (3); and
- B. is not on the list of prohibited companies or does not obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services <https://www.maine.gov/oit/prohibited-technologies>, Title 5 MRSA §2030-B.

Contracts entered into by a state agency in violation of 5 M.R.S. §2030-B are void. A person who executes this contract in violation of this section commits a civil violation for which a fine may be adjudged in an amount that is twice the amount of this contract or \$250,000, whichever is greater, Title 5 MRSA §2030-A

43. TARIFFS. Any price increases implemented by the provider due to the imposition of tariffs shall remain in effect only for the duration that such tariffs are in place. In the event of the repeal or reduction of any applicable tariff(s), the provider shall immediately return to the original price list or make a proportional reduction in the price to reflect the decrease in tariff(s). Price adjustments under this clause shall be made in good faith and without undue delay upon confirmation via documents reflecting tariff changes.

RIDER C: EXCEPTIONS TO RIDER B-IT

- 3. CHANGES IN THE WORK:** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment or Task Order signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.
- 4. SUBCONTRACTORS:** The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Agreement. The approval of the Department for the Provider to subcontract for work under this Agreement shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Agreement. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless the Department from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.

"Subcontractors" shall not include Provider's third-party software licensors, MRO (maintenance, repair and operations) suppliers, or other service or supply contractors for whose work Provider contracted independently and not specifically with respect to this Contract.

9. ACCOUNTING, RECORDS, AND AUDIT:

1. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement (the "Records"), including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, with at least five (5) business days' notice, and for a period of five (5) years following termination or expiration of the Agreement. If any litigation, claim or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the agreement have been resolved. Without limiting the foregoing, Provider shall only be required to provide such Records that pertain to the contract in question that relates to Products, Deliverables, and Services under a purchase order.
2. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all Records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.
3. Records involving matters in litigation shall be kept for one (1) year following the termination of litigation, including all appeals.
4. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Agreement period. During the

five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.

5. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or gross negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Agreement which have been disallowed in the audit exception.
6. ~~Reserved. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.~~
7. **ACCESS TO PUBLIC RECORDS** - As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the Maine freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence records pertaining to this Agreement and make such materials available, at its offices at all reasonable times upon reasonable request, during the period of this Agreement and for such subsequent period as specified under five (5) years thereafter, in accordance with Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. Any such inspection shall be conducted with at least 10 business days' advance notice and so as not to disrupt normal business operations. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.
10. **TERMINATION:** The performance of work under this Agreement may be terminated by the Department in whole or in part, whenever, for any reason the Agreement Administrator shall determine that such termination is in the best interests of the Department. Any such termination shall be effected by the delivery to the Provider of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination and modified accordingly. Termination without cause does not entitle the Department to receive any refund of fees paid for services or software that the Department has used or services that Provider has performed.

Upon receipt of the Notice of Termination, the Provider shall:

1. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination;

2. Take such action as may be necessary, or as the Agreement Administrator may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of the Provider, and in which the Department has, or may acquire, an interest;
3. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination;
4. Assign to the Department in the manner, and to the extent directed by the Agreement Administrator, all of the rights, titles, and interests of the Provider under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
5. With the approval of the Agreement Administrator, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement;
6. ~~Transfer title to the Department (to the extent that title has not already been transferred) and~~ Deliver in the manner, at the times, and to the extent directed by the Agreement Administrator, equipment and products purchased pursuant to this Agreement, and all files, source code, data manuals, or other documentation, in any form, any applicable Deliverables under a Task Order that relate to all the work completed, or in progress, prior to the Notice of Termination;
7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
8. Proceed promptly immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Provider.

12. **GOVERNING LAW:** This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against the Department regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction. The defending party does not waive its rights to contest venue.
13. **STATE HELD HARMLESS:**
 - (a) General Indemnity. The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third-party claims, liabilities, and damage award, settlement amount, costs, or expense including reasonable awarded attorney fees, for any or all injuries to persons or property or claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department

arising from any negligent act or omission or willful misconduct by Provider or its directors, officers, employees, or agents performing Services while on customer's site.

(b) Infringement Indemnity. Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against a third-party infringement claim under the following conditions:

- i. If Provider determines that an infringement claim is valid, Provider, may, at its own expense, either (a) obtain rights for the Department to continue using the Esri Offerings or Services or (b) modify the Esri Offerings or Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, Esri may terminate the Department's to use the Esri Offerings or Services and will refund any (aa) license fees that the Department paid for the infringing Esri Offerings or Services acquired under a Perpetual License, prorated on a 5-year, straight-line depreciation basis beginning from the initial date of delivery or (bb) unused portion of fees paid for Term Licenses, subscriptions, and Maintenance.
- ii. Provider has no obligation to defend an infringement claim or to indemnify Department to the extent the infringement claim arises out of (i) the combination or integration of Esri Offerings or Services with a product, process, system, or element that Provider has not supplied or specified in the Specification; (ii) alteration of Esri Offerings or Services by anyone other than Provider or its subcontractors; (iii) compliance with Department's specifications; or (iv) use of Esri Offerings or Services after Provider either provides a modified version to avoid infringement or terminates Department's right to use the Esri Offerings or Services.

(c) Conditions for Indemnification. As conditions for indemnification, Department will (i) promptly notify Provider in writing of the claim, (ii) provide all available documents describing the claim, (iii) subject to approval by the Maine Attorney General per 5 M.R.S. § 191, give Provider sole control of the defense of any action and negotiation related to the defense or settlement of any claim, and subject to review and written approval of any settlement that requires action and/or payment by the Department; and (iv) reasonably cooperate in the defense of the claim at Provider's request and expense.

14. LIMITATION OF LIABILITY: The Provider's liability to the Department, for damages sustained by the Department, as the result of Provider's default, or acts, or omissions, in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be the greater of any actual direct damages, up to the limits of the insurance required herein, or three times the value of the Product or Service that is the subject of this Agreement, up to a maximum of \$25,000,000, but not less than \$400,000.

For instance, if this Agreement is valued at \$15,000,000, then the Provider's liability is up to \$25,000,000. But if this Agreement is valued at \$100,000, then the Provider's liability is no greater than \$400,000.

Notwithstanding the above, Provider shall not be liable to the Department for any indirect or consequential damages not covered by any of the insurances required herein.

1. Disclaimer of Liability. (a) Neither Department, Provider, or third-party licensor will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; or costs of procurement of substitute goods or services

(b) Neither Department nor Provider will be liable for any direct damages greater than the limits of the insurance required herein, or three times the value of the Product or Service that is the subject of this Agreement, but not less than \$400,000.
2. The limitations and exclusions of liability in the preceding paragraph do not apply to Department's infringement, misuse, or misappropriation of Provider's or Provider's licensors' intellectual property rights, either party's indemnification obligations, gross negligence, willful misconduct, or violations of the Export Compliance clause of this Agreement.
3. Applicability of Disclaimers and Limitations. Provider or its authorized distributor has set its fees and entered into this Agreement in reliance on the disclaimers and limitations in this Agreement; the fees reflect an allocation of risk that is an essential basis of the bargain between the parties. These limitations will apply whether or not a party is aware of the possibility of any damage and notwithstanding any failure of essential purpose of any exclusive, limited remedy.
4. The foregoing disclaimers, limitations, and exclusions may be invalid in some jurisdictions and apply only to the extent permitted by applicable law or regulation in Customer's jurisdiction. Customer may have additional rights that may not be waived or disclaimed. Esri does not seek to limit Customer's warranty or remedies to any extent not permitted by law.

15. NOTICE OF CLAIMS: The Provider shall give the Agreement Administrator ~~immediate~~ prompt notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.

17. INSURANCE REQUIREMENTS: The Provider shall procure and maintain insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection to, the fulfillment of this Agreement, by the Provider, its agents, representatives, or employees, or Subcontractors. As it relates to Subcontractors, if applicable, except for workers compensation and employers' liability, Provider will flow down insurance requirements to its subcontractors or extend coverage to include subcontractors under Provider's insurance policies, subject to policy terms and conditions. The insurance shall be secured by the Provider, at the Provider's expense, and maintained in force, at all times during the term of this Agreement, and, for any claims-made (as opposed to occurrence-based) policy(ies), for a period of not less than two (2) years thereafter.

1. Minimum Coverage

- a) Errors & Omissions, or Professional Liability Insurance, or Insurance by any other name, covering the following:

- A. All losses caused by acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret) in an amount not less than \$1,000,000 per claim occurrence, and as an annual aggregate;

- B. Network security and privacy risks, including, but not limited to, unauthorized access, failure of security, breach of privacy, wrongful disclosure, collection, or other negligence in the handling of confidential information, related regulatory defense, and penalties in an amount not less than ~~\$1,000,000~~ \$5,000,000 per ~~claim occurrence~~, and as an annual aggregate;
- C. ~~Data breach expenses, in an amount not less than (see NOTE below and insert the appropriate limit based upon the number of Personally Identifiable Information records) \$(Amount will vary and will be equivalent to the total cost of the given purchase order), and payable, whether incurred by the Department or the Provider; for and on behalf of the Department, including, but not limited to:~~
- ~~C.1) Consumer notification, whether or not required by law;~~
 - ~~C.2) Forensic investigations;~~
 - ~~C.3) Public relations and crisis management fees; and~~
 - ~~C.4) Credit or identity monitoring, or similar remediation services.~~

~~The policy shall affirm coverage for contingent bodily injury and property damage arising from the failure of the Provider's technology services, or an error, or omission, in the content of, and information from, the Provider. If a sub-limit applies to any element of the coverage, the certificate of insurance must specify the coverage section and the amount of the sub-limit.~~

NOTE: Personally Identifiable Information (PII) is information that can be used to identify a single person, such as name, social security number, date and place of birth, mother's maiden name, driver's license, biometrics, etc. Maine State law also has a more specific definition in 10 M.R.S. §1347(6). The Data Breach component of the Insurance (per occurrence) is pegged to the number of PII records that are the subject of this Agreement.

| <u>Number of PII Records</u> | <u>Insurance per Occurrence</u> |
|-------------------------------------|----------------------------------------|
| <u>1 through 3,000</u> | <u>\$400,000</u> |
| <u>3,001 through 100,000</u> | <u>\$1,000,000</u> |
| <u>100,001 through 1,000,000</u> | <u>\$5,000,000</u> |
| <u>Greater than 1,000,000</u> | <u>\$10,000,000</u> |

D) Coverage includes:

- **Technology Errors and Omissions:** any loss caused by an error, omission or negligence by the primary insured (amended to include software copyright infringement)
- **Communications and Media Liability:** Communications & Media Liability (trademark, copyright infringement, plagiarism); Copyright and Trademark infringement claims in advertising, internet, and other material (excluding infringement of copyrighted software).
- **Network & Information Security Liability:** virus transmission, denial of service, breach of privacy or confidentiality obligations

b) Workers' Compensation and employer's liability, as required by law;

- c) Property (including contents coverage for all records maintained pursuant to this Agreement that is under Provider's care, custody, and control): \$1,000,000 per occurrence;
- d) Automotive Liability of not less than \$400,000 per occurrence single limit if the Provider will use vehicles to fulfill the contract; and
- e) Reserved; Crime, in an amount not less than \$(Amount will vary and will be equivalent to the total cost of the given purchase order), (The total monetary amount potentially at risk due to this contract; or Cash Currency and Negotiable Securities actually entrusted to this Provider); and
- f) Reserved. Business Interruption, in an amount that would allow the Provider to maintain operations in the event of a Property loss.

2. Other Provisions - Unless explicitly waived by the Department, the insurance policies shall contain, or be endorsed to contain, the following provisions:

- f) Except for Professional Liability, the Provider's insurance coverage shall be the primary and contributory to any other insurance purchased by the Department. Any insurance or self-insurance maintained by the Department for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
- g) The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- h) The Provider shall furnish the Department with certificates of insurance, and with those endorsements, if any, affecting coverage, required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Department before this Agreement commences. The Department reserves the right to require complete, certified copies of all required insurance policies at any time.
- i) Reserved. All policies should contain a revised cancellation clause allowing thirty (30) days notice to the Department in the event of cancellation for any reason, including nonpayment.
- j) The Department will not grant the Provider, or any sub-contractor of the Provider, "Additional Insured" status and the Department will not grant any Provider a "Waiver of Subrogation".

22. SET-OFF RIGHTS: Reserved. The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

23. Interpretation of the Agreement:

- a. RESERVED. Reliance on Policy Determinations - The Department shall determine all program policy. The Provider may, from time to time, request the Department to make policy determinations, or to issue operating guidelines required for the proper performance of this Agreement, and the Agreement Administrator shall respond in writing in a timely manner. The Provider shall be entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Agreement, or in any agreement, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.
- b. Titles Not Controlling - Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.
- c. No Rule of Construction - This is a negotiated Agreement and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

24. PERIOD OF WORK: Work under this Agreement shall begin on July 1, 2024 as indicated in Section III of Rider A, which is subject to no sooner than the date on which this Agreement has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Agreement shall expire on the date set out on the first page of this Agreement, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Agreement, including performance of any warranty and/or maintenance agreements, whichever is the later date.

25. NOTICES: All notices under this Agreement shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or electronically, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for notification purposes by giving written notice of the change and setting forth the new address and an effective date.

29. PROVIDER PERSONNEL (Pertains to a Professional Service engagement):

1. The parties recognize that the primary value of the Provider to the Department derives directly from its Key Personnel assigned in the performance of this Agreement. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.
2. The Department shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in the Department's judgment, are not appropriate for the performance of this Agreement. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.

3. During the course of this Agreement, the Department reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by the Department. In considering the Provider's employees' acceptability, the Department shall act reasonably and in good faith.
4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.
5. ~~During the course of this Agreement, the Department reserves the right to Provider has required that each employee (employees and Subcontractors) that are in any way involved in the performance of this Agreement has had a pre-employment background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Agreement.~~
30. **STATE PROPERTY:** The Provider shall be responsible for the proper custody and care of any Department or State-owned property furnished for the Provider's use in connection with the performance of this Agreement, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted which will be pursuant to any Limitation of Liability obligations stated under the Agreement regarding direct damages.
31. **PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS:**
 1. ~~The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Agreement do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.~~
 2. ~~The Provider may not publish or copyright any data without the prior approval of the Department. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.~~
 1. Department may not seek, and may not permit any other user to seek, a patent or similar right worldwide that is based on or incorporates any Products. This express prohibition on patenting will not apply to Department's software and technology except to the extent that Products, or any portion thereof, are part of any claim or preferred embodiment in a patent application or a similar application.
32. **PRODUCT WARRANTY:** ~~The Provider expressly warrants its products and services for one full year from their final written acceptance by the Department. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.~~

The parties acknowledge and agree that Provider provides a warranty period to Maine that is consistent with the warranty provisions in Section 24 of the Clarifications To Commonwealth And Esri Documents Pertaining To ITS75 Agreement between Provider and the Commonwealth of Massachusetts.

33. OPPORTUNITY TO CURE: The Agreement Administrator may notify the Provider in writing about the Department's concerns regarding the quality or timeliness of a deliverable. Within five (5) business days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. The Department's exercise of its rights under this provision shall not be construed as a waiver of the Department's right to terminate this Agreement pursuant to Section 13, Termination.

The parties acknowledge and agree that they are provided an opportunity to cure a breach or default that is consistent with Section 6 of the Clarifications To Commonwealth And Esri Documents Pertaining To ITS75 Agreement between Provider and the Commonwealth of Massachusetts.

34. COVER: Reserved. If, in the reasonable judgment of the Agreement Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.

35. CONFIDENTIALITY:

1. All materials and information given to the Provider by the Department, or acquired by the Provider on behalf of the Department, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.
2. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and the Department shall take all necessary steps to protect confidential information regarding all persons served by the Department, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Department, or whose information is utilized in order to accomplish the purposes of this Agreement.
3. In the event of a breach of this confidentiality provision, the Provider shall notify the Agreement Administrator immediately.
4. The Provider shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

The parties acknowledge and agree that the obligations of confidentiality in section 10 of the Clarifications To Commonwealth And Esri Documents Pertaining To ITS75 Agreement between Provider and the Commonwealth of Massachusetts apply to this Contract.

36. OWNERSHIP:

- ~~1. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Agreement are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Agreement, or equipment and products purchased pursuant to this Agreement. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws~~
- ~~2. Upon termination of this Agreement for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.~~
1. All ownership of Department data or Customer Content shall remain that of the Department and Provider shall only use Customer Content as stipulated below:
 - a. Department grants Provider and its subcontractors a nonexclusive, nontransferable, worldwide right to host, run, modify, and reproduce Customer Content as needed to provide Cloud Services to Department. Provider will not access, use, or disclose Customer Content without Department's written permission except as reasonably necessary to support Department's use of Cloud Services. Except for the limited rights granted to Provider under this Agreement, Department retains all its rights, title, and interest in the Customer Content.
 - b. If Department accesses Cloud Services with an application provided by a third party, Provider may disclose Department Content to such third party as necessary to enable interoperation between the application, Cloud Services, and Customer Content.
 - c. Provider may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Provider will provide advance notice to the Department and reasonably attempt to limit the scope of disclosure.
 - d. Except as otherwise stipulated under Rider E – Esri Enterprise Agreement, when Department's use of Cloud Services ends, Provider will either:
 - i. Make Customer Content available to Department for download for a period of 30 days unless Department requests a shorter window of availability, or Providers is legally prohibited from doing so; or
 - ii. Download all Customer Content in Provider's possession to a medium of Department's choosing and deliver such Customer Content to Department.

Provider will have no further obligations to store or return Customer Content at the conclusion of the Cloud Services.

37. CUSTOM SOFTWARE (Pertains to a Professional Service engagement): For all custom software furnished by the Provider as part of this agreement, the following terms and conditions shall apply:

4. The Department shall own any portion of the computer software code, components, dynamic link libraries (DLLs), and programs delivered on any media provided in source, object or executable code formats, inclusive of backups, that is supplied under a Task Order and that is unique to Departments and specifically attributable to Departments' line of business ("Custom Software") custom software. Custom Software is exclusive Commercial Off-the-Shelf Software (COTS), pre-existing code or general-purpose code and any deviation or modification of such. The Department shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all ~~custom software~~ Custom Software. Such ~~custom software~~ Custom Software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Agreement.

2. ~~Reserved. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.~~

38. OFF-THE-SHELF (OTS) SOFTWARE: ~~Reserved. For all OTS software purchased by the Provider as part of this Agreement, the following terms and conditions shall apply:~~

1. ~~This Agreement grants to the Department a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. The Department agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at the Department's site, at mutually agreed upon times. In the event that a separate license agreement accompanies the OTS software, then the terms of that separate license agreement supersede the above license granted for that OTS software.~~

2. ~~This Agreement does not transfer to the Department the title to any intellectual property contained in any OTS software. The Department will not decompile or disassemble any OTS software provided under this Agreement, or modify any OTS software that bears the copyright notice of a third party. The Department will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.~~

3. ~~If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.~~

39. SOFTWARE AS SERVICE: ~~Reserved. When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:~~

1. ~~The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit~~

with the Escrow Agent the software, all relevant documentation, and all of the Department's data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.

2. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:

a) The Provider has failed to carry out its obligations set forth in the this Agreement; or

b) A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or

c) The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or

d) The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or

e) A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.

3. The Provider is responsible for all fees to be paid to the Escrow Agent.

4. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

44. TERMS NOT APPLICABLE. The following is hereby added to the Agreement relating to Rider D, which will not apply for the duration of the Agreement:

- I. Any references to any quarterly fee payments or administrative fees.
- II. Any references to Exhibit 1 to RFR ITS75 Software-and-Services – Software as a Service (SaaS) additional terms and conditions.


RIDER G: Debarment, Performance, and Non-Collusion Certification

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
 - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
 - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
 - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
 - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.*
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- **Failure to provide this certification may result in the disqualification of the Bidder's proposal, at the discretion of the Department.**

To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| Name: Annette Kazandjian | Title: Managing Business Attorney |
| | |
| Authorized Signature: <div style="border: 1px solid black; border-radius: 10px; padding: 5px; display: inline-block; margin-left: 20px;"> Signed by:  <small>21FBD55545E6449...</small> </div> | Date: 6/13/2025 |

RIDER H: IDENTIFICATION OF COUNTRY IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:

☒ **United States. Please identify state:** Maine for end-user deployed licensed items and support, For AGOL cloud services the North America Eastern Region hosting center for AWS based cloud hosting Enter State

State question: Identify the state for end-user deployed licensed items and support.

Esri answer. Esri's U.S. based tech support call locations are in Redlands, California and in Charlotte, North Carolina available from 5:00 a.m. to 5:00 p.m. (Pacific Time), Monday through Friday, except Esri holidays. Esri also provides after hour support from international locations. While a customer is current on fees for NORUS, or a successor program, Esri will only provide technical support from locations in the United States.

State question: Identify the region for AGOL cloud services the North America Eastern Region hosting center for AWS based cloud hosting.

Esri answer: Customer Content or Customer data will only be stored on United States based servers, provided Customer selects United States as the region for Online Services (cloud services) servers. Customers do not have a choice as to which U.S. sub-region that the servers are located.

☐ **Other. Please identify country: Enter Country**

Notification of Changes to the Information:

The Provider agrees to notify the Division of Procurement Services of any changes to the information provided above.

ATTACHMENT A: PRICE SHEET

1. The current full product price sheet for products and service available under this Master Agreement is accessible at The Maine Office of GIS by submitting a request for quotation to the Systems Group Manager.

ATTACHMENT B: ITS75 Full Contract



ITS75 Full
Contract.pdf