



October 17, 2023
P54423

Ms. Katherine Lindsey
City of Hutchins
City Administrative Offices
321 N. Main Street
Hutchins, TX 75141

RE: Proposal for Annual GIS Hosting

Dear Ms. Lindsey,

We are pleased to present the following scope of services and fee schedule to perform professional Geographic Information System (GIS) services for the City of Hutchins. Per our discussion, the City would like Halff Associates to provide and maintain enterprise GIS hosting services. This proposal outlines the scope, fees and rate schedule for the enterprise hosting services on an annual basis.

This contract proposal includes the following items: Halff's Agreement for Professional Engineering Services on a Defined Scope of Services Basis, Exhibit 'A' – Scope of Services, Fees and Rate Schedule, and Exhibit 'B' – Esri Supplemental Terms and Conditions (Flow Down Provisions). The fee for enterprise GIS hosting services on an annual basis is in the amount of \$7,000 per year with one lump sum billing made yearly. The fees quoted in this proposal will be honored for up to 60 days from the date of this proposal. The signed Agreement by both parties will serve as Notice to Proceed (NTP). GIS services will begin upon NTP and following the kick-off meeting with the City of Hutchins.

We trust this proposal meets your requirements for this project. We appreciate the opportunity to be of service to you, and trust that our association on this project will be mutually beneficial. Please feel free to contact us if you have any questions or comments concerning this proposal.

Sincerely,

HALFF ASSOCIATES, INC.

A handwritten signature in blue ink, reading "Samuel Amoako-Atta".

Samuel Amoako-Atta, GISP, CFM
GIS Team Leader

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS

This Agreement for Professional Engineering Services ("Agreement") is entered into by the City of Hutchins a General Law City of the State of Texas ("Client"), duly authorized to act by the City Council of said Client, and HALFF ASSOCIATES, INC., a Texas corporation, acting through a duly authorized officer ("Engineer"), relative to Engineer providing professional engineering services to Client. Client and Engineer may be collectively referred to as the "Parties" or individually as a "Party".

WITNESSETH:

For the mutual promises and benefits herein described, Client and Engineer agree as follows:

I. **TERM OF AGREEMENT.** This Agreement shall become effective on the date of its execution by both Parties and shall continue in effect thereafter until terminated as provided herein.

II. **SERVICES TO BE PERFORMED BY ENGINEER.** Engineer shall provide to Client basic engineering services as described in the Scope of Services attachment and fully incorporated herein as "Exhibit A" which services may include, but will not be limited to, those services normally rendered by an engineer to a General Law City. Engineer shall perform its obligations under this Agreement as an independent contractor and not as an agent or fiduciary of any other party.

III. **COMPENSATION.** Client agrees to pay monthly itemized invoices or their undisputed portions within thirty (30) calendar days of receipt from Engineer. Payment later than thirty (30) calendar days shall include interest at one percent (1%) per month or lesser maximum enforceable interest rate, from the date Client received the invoice until the date Engineer receives payment. Such interest is due and payable when the overdue payment is made.

It is understood and agreed by the Parties that Engineer's receipt of payment(s) from Client is not contingent upon Client's receipt of payment, funding, reimbursement, or any other remuneration from others.

Time-related charges will be billed as specified in this Agreement. Unless stated otherwise in this Agreement, direct expenses, subcontracted services, and direct costs will be billed at actual cost plus a service charge of ten percent (10%). Mileage will be billed at current IRS rates.

IV. **CLIENT'S OBLIGATIONS.** Client agrees that it will (i) designate a specific person to act as Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to Client, when necessitated by a project, (iii) provide site access, and to provide those services described in the attached Scope of Services, assist Engineer in obtaining access to property necessary for performance of Engineer's work for Client, (iv) make prompt payments in response to Engineer's statements and (v) respond in a timely manner to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Client or Client's representatives.

V. **TERMINATION OF WORK.** Either Client or Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VI. **OWNERSHIP OF DOCUMENTS.** Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced, and used by Client for the purpose of constructing, operating, and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client

understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data, and other information developed in performing the services described by this Agreement in Engineer's other activities. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Engineer, and Engineer makes no warranties, either express or implied, of merchantability or fitness for any particular purpose. In no event shall Engineer be liable for any damages, including but not limited to indirect or consequential damages, as a result of Client's unauthorized use or reuse of the electronic files. Client is aware that differences may exist between the electronic files delivered and the printed hard-copy original documents. In the event of a conflict between the signed original documents prepared by Engineer and any electronic or other files or data provided, it is understood and agreed that the original signed or sealed hard-copy documents shall govern.

VII. NOTICES. Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

VIII. SOLE PARTIES AND ENTIRE AGREEMENT. This Agreement shall not create any rights or benefits to anyone except Client and Engineer and contains the entire Agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

IX. INSURANCE. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$2,000,000 per claim and in the aggregate. Engineer shall submit to Client a certificate of insurance prior to commencing any work for Client.

X. PROMPT PERFORMANCE BY ENGINEER. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the State of Texas applicable to such engineering services contemplated by this Agreement.

XI. CLIENT OBJECTION TO PERSONNEL. If at any time after entering into this Agreement Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XII. ASSIGNMENT. This Agreement is binding on the heirs, successors, and assigns of the Parties hereto. Neither this Agreement, nor any claims, rights, obligations, suits, or duties associated hereto, shall be assigned or assignable by either Client or Engineer without the prior written consent of the other Party. Further, nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Engineer and Client and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of Engineer and Client and not for the benefit of any other party (no third party beneficiaries).

XIII. JURISDICTION AND VENUE. This Agreement shall be administered under the substantive laws of the State of Texas (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in *Dallas County*, Texas.

XIV. INTEGRATION, MERGER AND SEVERABILITY. This Agreement and the Scope of Services, including fee and schedule are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents and is intended by the Parties to be the complete and final statement and expression of all the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement

supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XV. EXCLUSIVITY OF REMEDIES. The Parties acknowledge and agree that the remedies set forth in this Agreement (Agreed Remedies) are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVI. TIMELINESS OF PERFORMANCE. Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

XVII. DISPUTE RESOLUTION. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two (2) meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) calendar days following the initial meeting. Subsequent meetings, if any, may be scheduled upon mutual agreement of the Parties. The Parties agree that these two (2) meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the Parties as such rights relate to statutes of limitation or repose.

XVIII. PROJECT ENHANCEMENT/BETTERMENT. IF A COMPONENT OF CLIENT'S PROJECT IS OMITTED FROM ENGINEER'S CONTRACT DOCUMENTS DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT TO THE EXTENT OF ANY BETTERMENT OR ADDED VALUE TO THE PROJECT. SPECIFICALLY, CLIENT WILL BE RESPONSIBLE FOR THE AMOUNT IT WOULD HAVE PAID TO THE CONSTRUCTION CONTRACTOR (OR SUPPLIER OR SUBCONTRACTOR OR OTHER) FOR THE COMPONENT AS IF SUCH HAD BEEN INCLUDED IN ENGINEER'S CONTRACT DOCUMENTS. NOTWITHSTANDING THE FOREGOING, ENGINEER WILL BE RESPONSIBLE, IF AT ALL, TO THE EXTENT REASONABLE AND NECESSARY TO PLACE CLIENT IN THE SAME POSITION IT WOULD HAVE BEEN BUT FOR SUCH BREACH OR NEGLIGENCE. FOR THE REASONABLE (I) RETROFIT EXPENSE, (II) WASTE, OR (III) INTERVENING INCREASE IN THE COST OF THE COMPONENT FURNISHED THROUGH A CHANGE ORDER FROM THE CONTRACTOR. TO THE EXTENT THAT THE CONTRACTOR PROVIDED UNIT PRICING, CLIENT UNDERSTANDS AND AGREES THAT THE ISSUE OF INTERVENING UNIT COST INCREASES WOULD ONLY BE APPLICABLE TO NEWLY IDENTIFIED ITEMS, NOT INCREASES IN QUANTITY OF EXISTING ITEMS.

IF IT IS NECESSARY TO REPLACE A COMPONENT OF THE PROJECT DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT FOR THE ENHANCEMENT OR UPGRADE OF THE COMPONENT BEYOND THAT ORIGINALLY INCLUDED IN THE CONTRACT DOCUMENTS. IN ADDITION, IF THE COMPONENT HAS AN IDENTIFIABLE USEFUL LIFE THAT IS LESS THAN THE SYSTEM/STRUCTURE/IMPROVEMENT ITSELF, THE DAMAGES OF THE OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

SHOULD THERE BE AN ALLEGATION OF ERROR, NEGLIGENCE, BREACH OR OTHER DEFICIENCY IN THE SERVICES OF ENGINEER OR ANY OF ITS CONSULTANTS, AND SHOULD SUCH ALLEGATION RELATE TO A CONDITION, COMPONENT, OR ITEM IN THE SERVICES OR THE PROJECT THAT IS ALLEGED OR OTHERWISE CLAIMED TO BE INACCURATE OR OMITTED FROM ENGINEER'S DRAWINGS, INSTRUMENTS OR OTHER DOCUMENTS PREPARED UNDER THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED BY ALL PARTIES THAT ENGINEER AND ITS CONSULTANT'S LIABILITY, IF ANY, SHALL EXCLUDE ANY AND ALL DAMAGES, COSTS, OR EXPENSES THAT CREATE OR RESULT IN ADDED VALUE, UPGRADE, BETTERMENT OR ENHANCEMENT OF THE PROJECT AS SUCH RELATE TO THE INACCURATE OR OMITTED CONDITION, COMPONENT, OR ITEM AS ORIGINALLY DESIGNED.

XIX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES THAT ARE EITHER PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND ENGINEER AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY, CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED ENGINEER'S FEE RECEIVED FOR THE SERVICES PERFORMED, ADJUSTED DOWNWARD TO ACCOUNT FOR SUBCONSULTANT/SUBCONTRACTOR FEES INCURRED AND REIMBURSABLE EXPENSES UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS LOWER. INCREASED LIMITS MAY BE NEGOTIATED FOR AN ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) THREE (3) YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

E. IT IS UNDERSTOOD AND AGREED BY BOTH PARTIES TO THIS AGREEMENT THAT THE FIRST TEN DOLLARS (\$10.00) OF REMUNERATION PAID TO ENGINEER UNDER THIS AGREEMENT SHALL BE IN CONSIDERATION FOR INDEMNITY/INDEMNIFICATION PROVIDED FOR IN THIS AGREEMENT.

XX. WAIVER. Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

XXI. SIGNATORIES. Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the 17 day of October, 2023.

HALFF ASSOCIATES, INC.

CLIENT: CITY OF HUTCHINS, Texas

By: 
Signature

Samuel Amoako-Atta
Printed Name

GIS Team Leader
Title

10/17/2023
Date

By: _____
Signature

Printed Name

Title

Date

EXHIBIT 'A'

Scope of Services, Fees and Rate Schedule

A. Overview

As requested, and directed by the City of Hutchins, Halff will provide and maintain enterprise GIS hosting services. Halff has the knowledge and experience developing and hosting GIS solutions. Halff's hosting capabilities allow City staff to access their GIS data via web maps using current web browsers running on desktop, laptop, or mobile devices.

B. GIS Hosting Services

Halff will provide the computer resources required for the hosted solution, which will include the GIS database, web maps, and mobile GIS applications. Halff will provide general supporting for city staff up to 20 hours annually for the hosted solution. The general supporting includes items below:

1. Troubleshooting and answering questions through email, phone, and video conference communication technologies.
2. Managing user accounts on the Web Map Portal.
3. Updating Esri's GIS applications as applicable.

Halff will continue providing hosting services on an annual basis to coincide with the City's fiscal year unless the City notifies Halff in writing to terminate the service.

C. Service Level Agreement

1. Hosting Environment – The web maps and GIS database will be hosted on Halff's corporate servers which physically reside in Richardson, TX. Halff's IT department has a formal backup and disaster recovery plan in place which includes offsite virtualized servers, emergency power backup (short term and long term), and redundant internet connections. The hosting service includes server monitoring, data backups, security and user account administration, database administration, web map monitoring, and access to the ArcGIS Field Maps App (iOS/Android).
2. Level of Service – Halff's server availability goal is 99.0% fully operational for our hosted solutions, excluding regularly scheduled maintenance.
3. User Access – The hosted solution requires the use of named user accounts to access the web maps and mobile GIS applications, unless specifically published for public consumption. License allocation included with the annual hosting services for the City of Hutchins will be:
 - a. Four (4) Viewer accounts
 - b. Three (3) Editor accounts
 - c. Two (2) Field Data Collector add-on licenses
4. Support – Halff will provide up to twenty (20) hours of support annually through email, phone, and video conference communication technologies.
5. Annual Hosted Solution Term and Fee – The hosted solution provided by Halff will have a term of 1 year with a fee of \$7,000. The hosting fee includes the hosting environment, level of service, user access and support. Additional user access licenses and support

hours can be added at any time, the annual hosting fee will be adjusted based on the rate schedule and Esri requirements. The annual hosting agreement will automatically renew each year unless the City notifies Halff in writing at least 30 days prior to the annual renewal date.

D. Rate Schedule

Annual rates for additional GIS named user access licensing*

- Named user Viewer license \$150/user/year
- Named user Editor license \$250/user/year
- Field Data Collector add-on license** \$100/user/year
- Survey 123 add-on license** \$100/user/year
- Quick Capture add-on license** \$100/user/year

*License fees are subject to change from Esri.

**All add-on licenses are based on Editor license. The total cost of the Field Data Collector, Survey 123 or Quick Capture license per user per year is equal to the cost of Editor license per user per year plus the add-on license per user per year which is \$200 + \$150 = \$350.

EXHIBIT 'B'
Esri Supplemental Terms and Conditions (Flow Down Provisions)

A. Flow-Down Terms and Conditions for Hosted Solutions.

Client understands that the following flow down provisions and the terms and conditions contained herein must be expressly accepted prior to performance by Engineer of any of the services contained in this Agreement. Acceptance by Client can be acknowledged by initialing and providing a date of initialing in each page of the footer of this Agreement and by executing the places shown. Client's acceptance of this Agreement, and the Esri Supplemental Terms and Conditions as contained in this Exhibit B are required prior to performance of any services under this Agreement. Note also that Engineer's services may involve the use of information that may involve restrictions on use and possession, as established by Esri. These restrictions may include the terms of use and use restrictions as contained in a Master Agreement between Engineer and Esri. Engineer shall use reasonable efforts to inform Client of such restrictions and Client understands and acknowledges that there may be additional limitations and requirements as may be contained in and applicable to Authorized Sublicense Material in a Hosted Solution as authorized by Esri and described in the Sales Authorization application and approved by Esri. The following flow-down provisions apply to the relationship created in this Agreement between Client and Engineer and also, to the extent reasonable, to Client with respect to Esri requirements.

B. Client understands, accepts and agrees as follows:

1. To the fullest extent permitted by applicable law, Esri and its licensors' liability, including Engineer's liability, is disclaimed and otherwise waived in full for any damages or loss of any kind, whether direct, special, indirect, incidental, or consequential, arising from the use of the Hosted Solutions including, but not limited to, liability for use of Hosted Solutions in high-risk activities or liability related to any Data supplied by Esri.
2. Upon notification from the Engineer of the termination of the Engineer's Esri Partner Network Agreement, Client shall (i) cease access and use of the Hosted Solution, and (ii) clear any client-side data cache derived from the Hosted Solution.
3. Client, shall, as the Hosted Solution End User, comply fully with all relevant export laws and regulations of the United States, including, but not limited to, the Export Administration Regulations (EAR), including prohibited end users and end uses as referenced in Part 44 and Supplement No. 4 to Part 44 of the EAR (<https://www.bis.doc.gov/index.php/documents/regulations-docs/2343-part-744-control-policy-end-user-and-end-use-based-2/file> and <https://www.bis.doc.gov/index.php/documents/regulations-docs/2347-744-supp-4-6/file>); International Traffic in Arms Regulations (ITAR); and the United States Department of Treasury, Office of Foreign Assets Control (OFAC) regulations, and to ensure that Esri products, or any direct product thereof, are not exported, reexported, transferred, diverted, used, or accessed, directly or indirectly, in violation of any United States export laws and regulations. When applicable, Engineer and any Hosted Solution End Users will provide Esri with

information about Engineer and Hosted Solution End Users' export and distribution activities as may be required for Esri to meet its obligations under the United States export control laws and regulations.

4. Client shall prohibit the removal or obscuring of any patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to any Authorized Sublicense Material, output, metadata file, or online or hard-copy attribution page of any Data with respect to Authorized Sublicense Material.
5. Disclaim all terms in the Partner Network Agreement between Esri and the Engineer for Authorized Sublicense Material. Neither Esri, Engineer nor any Esri or Engineer licensors warrant that Data and Authorized Sublicense Material will meet the Client's, as Hosted Solution End User's, needs or expectations; Further, Client, as an Esri or Engineer licensor, understand and agree that the use of Data, Authorized Sublicense Materials, and Hosted Solutions shall not be guaranteed or uninterrupted; or that all nonconformities can or will be corrected. Client further understands, agrees and accepts that neither Esri nor Engineer have provided any guarantee or warranty (warranty) and that all implied warranties are expressly revoked and are inapplicable to this Agreement and that licensors (including Client) are not inviting reliance on Data in Authorized Sublicense Materials, and that Client, as the Hosted Solution End User, should always verify actual Data in Authorized Sublicense Materials. Any warranty offered, if any, shall only apply between offeror and receiver. Notwithstanding the previous sentence, Client understands, accepts and agrees that neither Engineer nor Esri offers or extends any warranties or indemnities to Client, as Hosted Solution End User, as such may relate to the Authorized Sublicense Material.
6. Client, as the Hosted Solution End User, is specifically prohibited from using Authorized Sublicense Material for any revenue- generating activities. Authorized Sublicense Material in Hosted Solution is for the internal use of Client, as Hosted Solution End User, and Engineer only.
7. Client, as the Hosted Solution End User, is specifically prohibited from using Authorized Sublicense Material independently from Hosted Solution or in any other product or service.
8. Client, as the Hosted Solution End User, understands, accepts and agrees that it is prohibited from storing, caching, using, uploading, distributing, or sublicensing content or otherwise using Authorized Sublicense Material in violation of Esri's or Engineer's or a third- party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation.
9. Client, agrees, understands and accepts that it is Prohibited from sharing Named User login credentials. These credentials are for Client only, as the designated Hosted Solution End User, and may not be shared with other individuals. A license may be reassigned to another Hosted Solution End User if the former user no longer requires access to the Hosted Solution.