

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 9

### Bill No. 35-2020

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year Agreement between Howard County, Maryland and Pictometry International Corp. for certain pictometry services used by the County, authorizing the Executive to make changes to the Agreement, under certain conditions; authorizing the County Executive to execute the Agreement; and generally relating to the Agreement.

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Introduced and read first time \_\_\_\_\_, 2020. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2020.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

This Bill was read the third time on \_\_\_\_\_, 2020 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Approved by the County Executive \_\_\_\_\_, 2020

\_\_\_\_\_  
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, pictometry is an aerial image capture process that produces imagery  
2 (oblique digital orthophotography) showing the fronts and sides of buildings and locations on the  
3 ground; and

4  
5           **WHEREAS**, images are captured by low-flying airplanes and can then be stitched  
6 together to create composite aerial maps that seamlessly span many miles of terrain; and

7  
8           **WHEREAS**, the County uses pictometry imagery in its existing GIS (Geospatial  
9 Information Systems) software application for many purposes including, without limitation,  
10 applications for a variety of County services, permits, zoning, emergency response/9-1-1, police  
11 investigations, and land use planning and development; and

12  
13           **WHEREAS**, the County’s current contract for pictometry services expires in 2020; and

14  
15           **WHEREAS**, the United States General Services Administration entered into Contract  
16 GS-35F-0801N with Pictometry International Corp, a New York corporation, for the  
17 procurement of pictometry services (the “GSA Contract”, attached as Exhibit A); and

18  
19           **WHEREAS**, the County wishes to piggyback on the GSA Contract and enter into an  
20 Agreement (the “Agreement”) with Pictometry International Corp., substantially in the form  
21 attached as Exhibit B; and

22  
23           **WHEREAS**, the term of the Agreement is six years and will cost approximately  
24 \$454,671.36 over the entire term of the Agreement; and

25  
26           **WHEREAS**, the Agreement requires the payment by the County of funds from an  
27 appropriation in a later fiscal year and therefore requires County Council approval as a multi-year  
28 agreement pursuant to Section 612 of the Howard County Charter and Section 4.118 of the  
29 Howard County Code.

1           **NOW, THEREFORE,**

2  
3    **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that in  
4    accordance with Section 612 of the Howard County Charter and Section 4.118 of the Howard  
5    County Code, it approves the terms of the Agreement between Howard County and Pictometry  
6    International Corp., which shall be in substantially the same form as Exhibit B attached to this  
7    Act.

8  
9    **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that  
10   the County Executive is hereby authorized to execute and deliver the Agreement for such term in  
11   the name of and on behalf of the County.

12  
13   **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland that  
14   the County Executive, prior to execution and delivery of the Agreement, may make such changes  
15   or modifications to the Agreement as he deems appropriate in order to accomplish the purpose of  
16   the transactions authorized by this Act, provided that such changes or modifications shall be within  
17   the scope of the transactions authorized by this Act; and the execution of the Agreement by the  
18   County Executive shall be conclusive evidence of the approval by the County Executive of all  
19   changes or modifications to the Agreement, and the Agreement shall thereupon become binding  
20   upon the County in accordance with its terms.

21  
22   **Section 4. And Be It Further Enacted** by the County Council of Howard County, Maryland that  
23   this Act shall be effective immediately upon its enactment.



**GENERAL SERVICES ADMINISTRATION  
FEDERAL SUPPLY SERVICE  
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE LIST**

*On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!, a menu-driven database system. The Internet address for GSA Advantage! is: <http://www.gsaadvantage.gov>*

**CONTRACT NUMBER:**

**GS-35F-0801N**

**PERIOD COVERED BY CONTRACT:**

**July 24, 2003 through July 23, 2023**

**PICTOMETRY INTERNATIONAL CORP  
25 METHODIST HILL DRIVE  
ROCHESTER, NY 14623-4260  
585-486-0093  
[www.Pictometry.com](http://www.Pictometry.com)**

**General Services Administration  
Management Services Center Acquisition Division  
Modification #PS-0045, dated December 16, 2019**

**Business Size: Other Than Small Business  
DUNS: 967973769**

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at <http://www.fss.gsa.gov>.



**Pictometry is a revolutionary digital imaging system and software program that maps each pixel of a digital image both Oblique and Nadir (straight down) to actual geographic coordinates. It allows all features in an image to be easily located and accurately measured. It is the most efficient and cost effective way to perform field study observations using high quality images.**

**This contract is for term software licenses for Standard Image Sectors which includes installation, initial training, support, and initial implementation telephone support and optional Oblique/Orthogonal/Re-shoots.**

### Illustration of a Typical Pictometry Electronic Field Study Software Window





**GSA AWARDED TERMS AND CONDITIONS**

**1a. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SINs)**

Special Item Number 132-33 - Perpetual Software Licenses  
Special Item Number 132-41 – Earth Observation Solutions

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers  
Application Software  
Utility Software

**1b. LOWEST PRICED MODEL NUMBER AND PRICE FOR EACH SIN:** See attached GSA Pricelist

**1c. HOURLY RATES (Services Only):** N/A

**2. MAXIMUM ORDER\***

**a. The Maximum Order value for the following Special Item Numbers (SINs) is**

|   |             |
|---|-------------|
| Special Item Number 132-33 - Perpetual Software Licenses: | \$500,000   |
| Special Item Number 132-41 – Earth Observation Solutions: | \$1,000,000 |

**\*If the “best value” selection places your order over this Maximum Order identified in this catalog/pricelist, you have an opportunity to obtain a better schedule contract price. Before placing your order, contact the aforementioned contractor for a better price. The contractor may (1) offer a new price for this requirement; (2) offer the lowest price available under this contract; or (3) decline the order. A delivery order that exceeds the maximum order may be placed under the Schedule contract in accordance with FAR 8.404**

**3. MINIMUM ORDER:** \$100

**4. GEOGRAPHIC COVERAGE:** Continental United States, Alaska, Hawaii, Puerto Rico and District of Columbia

**5. POINT(S) OF PRODUCTION:**  
PICTOMETRY INTERNATIONAL CORP  
25 METHODIST HILL DRIVE  
ROCHESTER, NY 14623-4260  
585-486-0093  
[www.Pictometry.com](http://www.Pictometry.com)

**6. DISCOUNT FROM LIST PRICES:** Refer to attached Pricelist

**7. QUANTITY DISCOUNT(S):** Refer to attached Pricelist

**8. PROMPT PAYMENT TERMS:** 0%, Net 30 Days

**9a.** Government purchase cards **are accepted** at or below the micro-purchase threshold



- 9b. Government purchase cards **are not accepted** above the micro-purchase threshold
10. **FOREIGN ITEMS:** N/A
- 11a. **TIME OF DELIVERY:** 60 Days from date of last image capture
- 11b. **EXPEDITED DELIVERY:** To be negotiated at the task order level
- 11c. **OVERNIGHT AND 2-DAY DELIVERY:** To be negotiated at the task order level
- 11d. **URGENT REQUIREMENTS:** To be negotiated at the task order level
12. **FOB POINT:** Destination
- 13a. **ORDERING ADDRESS:**  
PICTOMETRY INTERNATIONAL CORP  
25 METHODIST HILL DRIVE  
ROCHESTER, NY 14623-4260  
585-486-0093  
[www.Pictometry.com](http://www.Pictometry.com)  
Ordering Telephone Number - Facsimile: 585-486-0098
- The following telephone number(s) can be used by ordering agencies to obtain technical and/or ordering assistance: 585-486-0093 or 888-771-9714.**
- 13b. **ORDERING PROCEDURES:** For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in FAR 8.405-3
14. **PAYMENT ADDRESS:**  
PICTOMETRY INTERNATIONAL CORP  
25 METHODIST HILL DRIVE  
ROCHESTER, NY 14623-4260  
585-486-0093  
[www.Pictometry.com](http://www.Pictometry.com)
15. **WARRANTY PROVISION:** See Terms and Conditions
16. **EXPORT PACKING CHARGES:** N/A
17. **TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE:**  
Accepted at or below the micro-purchase threshold
18. **TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR (if applicable).** N/A
19. **TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE):** See Terms and Conditions
20. **TERMS AND CONDITIONS OF REPAIR PARTS INDICATING DATE OF PARTS PRICE LISTS AND ANY DISCOUNTS FROM LIST PRICES (IF AVAILABLE):** N/A
- 20a. **TERMS AND CONDITIONS FOR ANY OTHER SERVICES (IF APPLICABLE):** N/A



**21. LIST OF SERVICE AND DISTRIBUTION POINTS (IF APPLICABLE):**

PICTOMETRY INTERNATIONAL CORP  
25 METHODIST HILL DRIVE  
ROCHESTER, NY 14623-4260  
585-486-0093  
[www.Pictometry.com](http://www.Pictometry.com)

The following telephone number(s) can be used by ordering agencies to obtain technical and/or ordering assistance: 585-486-0093 or 888-771-9714.

**22. LIST OF PARTICIPATING DEALERS (IF APPLICABLE): N/A**

**23. PREVENTIVE MAINTENANCE (IF APPLICABLE): N/A**

**24a. SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (e.g. recycled content, energy efficiency, and/or reduced pollutants): N/A**

**24b. Section 508 Compliance for EIT: As applicable**

**25. DUNS NUMBER: 96-797-3769**

**26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE: Active**

**27. CONTRACTOR'S TAXPAYER IDENTIFICATION NUMBER (TIN): 16-1595473**





**TERMS AND CONDITIONS APPLICABLE TO  
PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33)**

**1. INSPECTION/ACCEPTANCE**

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any software that has been tendered for acceptance. The Government may require repair or replacement of nonconforming software at no increase in contract price. The Government must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

**2. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)**

The Contractor shall provide all Enterprise User License Agreements in an editable Microsoft Office (Word) format.

**3. GUARANTEE/WARRANTY**

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. **Limitation of Liability.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

**GRANT OF LICENSE:** Intending to be legally bound, Pictometry and the Licensee (each a "party") hereby agree:

**Definitions -** As used herein, the following words, phrases, or terms in this Agreement shall have the following meanings:

"Images" namely georeferenced images of land some of which Pictometry will make with its proprietary systems prior to delivery and some of which it has or may acquire rights to use from others, Pictometric Images, and Electronic Photo Images which do not have the georeferencing data,

"Geographic Data" ("Geo Data") is the data supplied by Pictometry that is associated with Images and allows those Images to be georeferenced.

"Software" namely certain proprietary computer runtime executable files, one part of which is referred to as the Electronic Field Study software (the "EFS"), and the other part of which is referred to as the Client Image Warehouse software ("CIW"), which can be used to access and display the Images; and

"Documentation" comprised of written and/or electronic materials containing instructions and other information related to the use of the Images and the Software.

"Electronic Field Study" ("EFS") A proprietary software package that allows for the display and analysis of Pictometric Images.

"Client Image Warehouse" ("CIM") A hierarchical storage system of Pictometric images that allows fast, random access by geo-location.

"Pictometric Image" means orthogonal and oblique digital images, automatically captured and geo-referenced from airborne platforms using Pictometry's patented and proprietary hardware and software capture system.



"Electronic Photo Image" Orthogonal and oblique digital images, automatically captured from airborne platforms using Pictometry's patented and proprietary hardware and software capture system but without geo-referencing.

"Image Sector" A portion of an image collection project defined as approximately one square mile in area.

"Community Images" ("CI") A set of three images, each covering the entire sector; one from directly overhead, and two from different oblique angles.

"Neighborhood Images" ("NI") A set of fifty overlapping, oblique images blanketing the entire sector, providing for a higher degree of detail.

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Use of Pictometry Marks. Licensee acknowledges that Pictometry owns and retains all ownership rights in trademarks, trade names, logos, and designations used by Pictometry in connection with the Licensed Products. Licensee agrees not to attach any additional trademarks, trade names, logos or designations to any Pictometry product or to any copies of any of the Licensed Images. Licensee may, however, include a Licensee seal and appropriate Licensee Department contact information so long as these annotations in no way obscure or deface the Pictometry marks. Licensee further agrees that Licensee will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Licensed Images and the other Licensed Products. Licensee's nonexclusive right to use Pictometry's trademark is coterminous with this Agreement.

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Prohibition On "Unlocking." Licensee understands that Pictometry does not disclose source code and Licensee agrees that it will take all reasonable actions to assure that persons who might access the Licensed Software will not "unlock" or "reverse engineer" any part of the Licensed Software so as to find or uncover the source code or other trade secrets included therein.



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**System Installation.** After execution of this Agreement, Licensee will provide storage media for the installation of the Licensed Images and Licensed Software. Pictometry may install a copy of the Licensed Images and Licensed Software on that media. The Licensee will install the Licensed Images and Licensed Software from the media onto computers to be designated by the Licensee. Upon request by the Licensee and payment of Pictometry's fees and expenses as set forth from time to time on Pictometry's price lists, Pictometry will deliver additional copies of the Licensed Images and Licensed Software for other or replacement computers. The Licensee will be responsible for providing the computer system to be used for these purposes.

**Licensee May Authorize Subdivisions.** The Licensee may from time to time authorize any department, sub unit or location within the Licensee (hereinafter "Subdivisions") to have the Licensed Products installed on computers owned (or leased) and used by those Subdivisions and to use and execute the Licensed Software for official purposes only, all in accordance with this Agreement. The installation of the Client Image warehouse and EFS and the training of Subdivision personnel may be done only by either the Licensee or Pictometry. The Subdivisions authorized for such installation, use, and execution (the "Authorized Subdivisions"), as well as the specific servers and Authorized Workstations involved and the Authorized Users employed by those Subdivisions, will be designated from time to time by the Licensee. All Authorized Subdivisions shall operate under this Agreement as agents of the Licensee and comply with all obligations of Licensee with respect to the use and distribution of the Licensed Products, and Pictometry may look to the Licensee alone for assuring compliance with the terms and conditions of this Agreement.

**Authorized Users.** As used in this Agreement, "Authorized Users" shall mean such persons in the employ of Licensee, or in the employ of an Authorized Subdivision, as may be designated to use and execute the Licensed Software on the designated computers. Licensee agrees: (a) that it will not allow any persons other than Authorized Users to use or operate, or to have any other access to, any of the Licensed Products, (b) that it will not allow access to any of the Licensed Software or any Licensed Images except through Authorized Workstations, and (c) that it will cause all Authorized Users to comply with all of the terms, conditions, and limitations applicable to the Licensee under this Agreement

**Authorized Workstations.** As used in this Agreement, "Authorized Workstation" shall mean a computer workstation that has access to the Client Image Warehouse and which has installed on it the related Licensed Software in accordance with Section 4.1(a) below. No workstation shall be an Authorized Workstation unless its identification and location is given in writing to Pictometry as required by Section 6.3 below.

## GRANT OF LICENSE

**License Grant Uses. License Grant, Uses, and Certain Fees.** In consideration for the payment of the License Fees, and subject to the other terms and conditions of this Agreement, Pictometry hereby grants to Licensee, and Licensee hereby accepts, a nonexclusive, nontransferable, limited license (the "License") as follows:

(a) **Installation.** To install the Client Image Warehouse on servers and related Licensed Software on Authorized Workstations, all of which shall be owned (or leased) by, shall be located on the property of, shall be under the control of, and shall be used by the Licensee or by an Authorized Subdivision. None of the Licensed Products shall be accessed except through such designated servers and Authorized Workstations.

(b) **Documentation.** To copy and use the related user documentation included in the Licensed Products in connection with the activities described herein.

(c) **Uses.** Through Authorized Users only, to use and execute the Licensed Software on those designated servers and Authorized Workstations in the conduct of the public business of the Licensee or of the Authorized Subdivisions and use and print copies of the Licensed Images in the following activities (and no others):



(1) For Internal Business. In the conduct of the operations of the Licensee and/or of the Authorized Subdivisions, to use and execute the Licensed Products for internal use in pursuit of its or their public responsibilities.

(2) For Persons Doing Business With Licensee ("Project Participants"). Under the supervision of Authorized Users, allow representatives of persons doing or proposing to do business with the Licensee or an Authorized Subdivision on Licensee Projects (defined below) to use and execute the Licensed Software and to make copies of the Licensed Images with ink or toner on substrate (hereinafter "Hard Copies") at the Licensee or Authorized Subdivisions' facilities only, but not to make any electronic or digital copies of the Licensed Images ("Digital Copy"). For these purposes, "Licensee Projects" shall mean any plan or effort for construction, equipment acquisition, or other improvement in real estate, offices, facilities, or other operating assets that are, or will be, owned and used by the Licensee or an Authorized Subdivision in pursuit of its public responsibilities, including any such assets (such as roads and public buildings) that are provided by the Licensee for use by the public. The Licensee or Authorized Subdivisions shall cause each Project Participant to agree to use the Licensed Products solely in connection with the Licensee's or Authorized Subdivision's Project and to return the Hard Copies upon completion of its participation in the Licensee's or Authorized Subdivision's Project.

**Limitations On License.** In addition to its other obligations under this Agreement, Licensee agrees: (a) that nothing under this Agreement authorizes it to engage in any service bureau work, to exercise or provide any multiple-user license, or to enter into any time-sharing arrangement, except as expressly authorized with respect to Authorized Subdivisions, (b) that Licensee will not authorize or allow any remote access to the Licensed Products and will only allow access to them through Authorized Workstations, (c) that Pictometry shall not be obligated to provide support for the Licensed Products in any manner other than as set forth herein or to revise, improve, or otherwise change the Licensed Software in any way, (d) that the Licensee is responsible for selecting Authorized Users who are qualified to operate the Licensed Software on Authorized Workstations and are familiar with the information, calculations, and reports that serve as input and output of the Licensed Software, (e) that the Licensee and its Authorized Subdivisions may not copy, download, store, publish, transmit, transfer, sell, or otherwise install or use the Licensed Software or any Images or any portion of the Images in any form or by any means, except (i) as expressly permitted by this Agreement, (ii) with Pictometry's prior written permission, or (iii) to the extent not expressly prohibited by this Agreement, as allowed under the fair use provision of the Copyright Act (17 U.S.C. § 107). Licensee agrees that it will deliver to all recipients of any Hard Copies, and to any other persons who may have access to any of the Images, all such disclaimers and other information that Pictometry may request so as to assist those persons in understanding the limitations on the accuracy of the information developed through the Licensed Products.

**Pictometry's Reserved Rights.** Pictometry reserves the right from time to time, in its sole discretion and without liability to Licensee, to create new versions of or modules of additional functionality for any part of the Licensed Products, which versions and modules may be acquired on a nonexclusive basis by Licensee under a separate agreement. Pictometry may, in addition, produce updates of the Licensed Products, which will be supplied without additional cost to Licensee. Pictometry may continue to sell or license the use of its software and imagery, including the Licensed Products, to such persons and entities and on such terms and conditions as Pictometry may in its sole discretion determine.

## **LICENSE FEES**

**License Fees.** In consideration for the License, and subject to the other terms and conditions of this Agreement, the Licensee hereby agrees to pay to Pictometry the annual and other fees described herein (altogether the "License Fees"), payment to be made as provided herein. Any tax, including sales tax is in addition to the License Fees and is the responsibility of the Licensee. The license fees shall be earned on the shipment date even if a payment schedule has been agreed upon.

## **OBLIGATIONS OF LICENSEE**



**Geographic Data.** Licensee may provide to Pictometry any geographic data available in industry standard format, shape, DBF, etc., including digital elevation models, street centerline maps tax parcel maps, centroids, etc. This data will be incorporated into the Image Library licensed to the Licensee. For any of this data that is owned by the Licensee, Licensee agrees Pictometry may distribute this data with the Image Library to other Licensees.

**Technical Support Contacts.** Licensee agrees to name Licensee personnel to act as technical support contacts. These contacts will receive technical training as provided in Schedule A. These contacts will coordinate all requests and inquiries from all Licensee Authorized Users. If additional support is required by Licensee, only these technical support contacts will have access to telephone support from Pictometry.

**Costs and Expenses of Licensee Performance.** Except as expressly provided herein or agreed in writing by Pictometry, Licensee will pay all costs and expenses incurred in the performance of Licensee's obligations under this Agreement.

**Notification.** Licensee will: (a) notify Pictometry in writing of any claim or proceeding involving any of the Licensed Products within ten days after Licensee learns of the claim or proceeding; and (b) report promptly to Pictometry all claimed or suspected defects in any Licensed Product.

## **ASSIGNMENT**

**General.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns, but shall not be assignable by either party except as provided below.

**Assignment By Licensee.** This Agreement will not be assignable by Licensee, and Licensee may not delegate its duties hereunder without the prior written consent of Pictometry.

**Assignment By Pictometry.** Pictometry shall have the right to assign its rights to receive License Fees under this Agreement, but no such assignment shall affect Pictometry's obligations hereunder. In addition, Pictometry shall have the right to assign all its rights to any person or entity that has acquired substantially all the Pictometry assets used in with respect to the Licensed Products, provided the assignee has assumed all of Pictometry's obligations under this Agreement. Except as provided in this paragraph, this Agreement will not be assignable by Pictometry.

## **DURATION AND TERMINATION OF TERM LICENSES**

**Initial Term.** The initial term of this Agreement shall commence upon the shipment of the Client Image Library.

**Renewal.** Effective as of that second anniversary, Pictometry will grant an extension of the Licensed Products to Licensee, only in accordance with the following:

- (1) If no later than the 120th day before that second anniversary, the Licensee enters into a renewal License Agreement with Pictometry for an additional two years for new Licensed Images with a value equal to or greater than that of the existing Licensed Images, then Pictometry will grant a perpetual License to Licensee for the existing Licensed Products; or
- (2) If no later than the 10th day after that expiration date the Licensee pays Pictometry an additional payment equal to 10% of the two-year license fee due under this Agreement, the License for imagery will be converted to a perpetual license.

Any extensions will be subject to the same terms and conditions as are provided in this Agreement except that the annual fee will be eliminated and the Licensee will no longer be able to add images to the existing Image Library.

**Termination For Cause.** This Agreement may be terminated by either party in the event that the other party has failed to perform a material obligation or has otherwise breached a material term of this Agreement if that other party has failed to cure that failure or breach within thirty days after receipt of written notice thereof from the other party.

**Effect of Termination or Expiration.** Upon termination or expiration of this Agreement, Licensee immediately shall cease any and all further use of the Licensed Products and shall promptly purge all copies of Images and all



Licensed Software (including but not limited to EFS and CIW) from all computers and workstations on which any of them may be stored or available at the time. In addition, the Licensee shall destroy all remaining inventory of Hard Copies of Images in its possession or under its control.

Access to Records. During the term of this Agreement and for a period of three (3) years after the date of its termination or expiration, Licensee shall make available to Pictometry for inspection and copying on reasonable notice and at reasonable hours all books and records, including electronically retained information, pertaining to Licensee's compliance with the provisions of this Agreement.

Survival of Rights and Obligations After Termination of License. The provisions of the paragraphs Intellectual Property & Reservation of Ownership, Assignment, Duration and Termination of Term License, Limited Warranty, Disclaimer of Warranty and Limited Remedies, and General of this Agreement shall survive any termination or expiration of this Agreement. Within thirty (30) days of the date of termination or expiration of this Agreement, Licensee shall pay Pictometry all amounts due hereunder and to purge the Licensed Software and the Licensed Images.

### **LIMITED WARRANTY; DISCLAIMER OF WARRANTIES; LIMITED REMEDIES**

Limited Warranties. Pictometry warrants:

1. that the Licensed Images and the Licensed Software installed by Pictometry on any Authorized Workstation supplied by Licensee pursuant to this Agreement will be true and usable copies as of the date of capture; and
2. that the information concerning the accuracy of the Licensed Products set forth on the attached is substantially true.

Upon notice to Pictometry of any breach of the warranty in clause (a) above, Pictometry will promptly reinstall a copy of the Licensed Images and/or Licensed Software involved. Upon notice to Pictometry of any breach of the warranty in clause (b) above, Pictometry will use its reasonable efforts to correct the problem so as to allow the Licensed Products to produce Images and related data that are usable for the general purposes intended. The foregoing warranties are the sole and exclusive warranties that Pictometry makes with respect to the Licensed Products, and the remedies set forth above are the sole and exclusive remedies for breach of those warranties.

Disclaimer of Other Warranties. Except as provided in Section 9.1 above, EACH OF THE LICENSED PRODUCTS IS PROVIDED TO LICENSEE "AS IS" AND "WITH ALL FAULTS" PICTOMETRY MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NONINFRINGEMENT, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.

Limitations and Exclusions of Remedies. The respective remedies set forth in Section 9.1 are the sole and exclusive remedies provided for breach of the warranties given. With respect to any other claims that Licensee may have at any time against Pictometry on any matter relating to this Agreement, or the installation, operation, design, distribution, or use of the Licensed Products, the total liability of Pictometry shall in the aggregate be limited to the aggregate amounts of money that Licensee has paid to Pictometry under this Agreement. In addition, because of scheduling and other considerations in preparing current Licensed Images, Pictometry cannot assure delivery of the Licensed Products on a specified delivery date, and Pictometry shall not be liable for any such late delivery except in a case of its gross negligence or willful misconduct. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE LICENSED PRODUCTS, OR IMAGES (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR BY ITS CUSTOMERS OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **GENERAL**

Entire Agreement. This Agreement, which includes the attached Schedules, contains the entire agreement between



the parties and supersedes all written or oral agreements, descriptions, representations, and understandings with respect to the subject matter hereof. Where differences occur between the main body of the Agreement and the attached Schedules, the Schedules shall supersede the Agreement. Licensee acknowledges that it is not entering into this Agreement on the basis of any representations not expressly contained herein. Any modifications of this Agreement must be in writing and signed by a duly authorized officer of each party.

**Rights of Others.** This Agreement is solely intended to provide rights to and be enforceable by Pictometry and Licensee (including its Authorized Subdivisions). No other person shall acquire or enforce any rights or any representations or warranties given under this Agreement.

**Waiver.** The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.

**Execution of Agreement, Controlling Law, and Jurisdiction.** This Agreement will become effective only after it has been signed by Licensee and has been accepted by Pictometry at its principal place of business. The Agreement shall be governed by and construed in accordance with Federal Law.

**Severability.** In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

**Force Majeure.** Pictometry shall not be responsible for any failure to perform due to unforeseen circumstances or to causes beyond Pictometry's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, failure to obtain export licenses or shortages or delays of transportation, facilities, fuel, energy, supplies, labor, or materials. In the event of any such delay, Pictometry may defer the delivery of Licensed Products for a period equal to the time of the delay.

#### **4. TECHNICAL SERVICES**

The Contractor, without additional charge to the Government, shall provide a hot line technical support number Customer Support: **888-771-9714** for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 9:00 am to 5:00 pm EST, Monday - Friday.

#### **5. SOFTWARE MAINTENANCE**

a. Software maintenance as it is defined: (select software maintenance type) :

\_\_\_\_\_ 1. Software Maintenance as a Product (SIN 132-32 or SIN 132-33)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

\_\_\_\_\_ 2. Software Maintenance as a Service (SIN 132-34)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.



b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

#### **6. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)**

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Term licenses and/or maintenance may be discontinued by the Government on thirty (30) calendar day's written notice to the Contractor.

c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.

d. Cross-Year Funding Within Contract Period. Where an ordering office's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering office may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering offices should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order if the term licenses are to be terminated at that time. Orders for the continuation of term will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

#### **7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE**

a. The Government may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the Government the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.

b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the Government.

c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.

d. The price the Government shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to 0% of all term license payments during the period that the software was under a term license within the Government.

Contact Pictometry International to arrange conversion of software to a perpetual license.

#### **8. TERM LICENSE CESSATION**

a. After a software product has been on a continuous term license for the specific period of the continuous term license, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the Government. The period of continuous term license for automatic accrual of a fully paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the Government; however, should the term license of the software be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.

b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number 132-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.





**9. UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)**

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Government, commercial computer software and related documentation so legend shall be subject to the following:
  - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
  - (2) Software licenses are by site and by agency. An agency is defined as a cabinet level or independent agency. The software may be used by any subdivision of the agency (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one agency's site. This would allow other agencies access to one agency's database. For Government public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user agency will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user agency's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user agency.
  - (3) Except as is provided in paragraph 8.b(2) above, the Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government may already have or obtains without restrictions.
  - (4) The Government shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the Government has the right to transfer the software to another site if the Government site for which it is acquired is deemed to be unsafe for Government personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
  - (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

**10. SOFTWARE CONVERSIONS - (SIN 132-32 AND SIN 132-33)**

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

**11. PRODUCT DESCRIPTIONS EQUIPMENT COMPATIBILITY:**



The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

**12. RIGHT-TO-COPY PRICING**

The Contractor shall insert the discounted pricing for right-to-copy licenses.



**TERMS AND CONDITIONS APPLICABLE TO  
EARTH OBSERVATION SOLUTIONS (SPECIAL ITEM NUMBER 132-41)**

**1. SCOPE**

- a. The terms and conditions stated under Special Item Numbers 132-41 Earth Observation Solutions apply exclusively to this SIN within the Information Technology Schedule.
- b. This SIN is a solutions SIN, which involves services and products to include but not limited to imagery, subscriptions, software, platform and data as a service, and end-to-end data analytics. This SIN provides ordering activities with access to a wide range of Earth Observation Solutions.
- c. Earth Observation Solutions provided shall comply with all certifications and industry standards as specified by ordering activity.
- d. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

**2. INFORMATION ASSURANCE/SECURITY REQUIREMENTS**

- a. The contractor shall meet information assurance and security requirements in accordance with the ordering activity requirements specified in the order and/or Blanket Purchase Agreement. The ordering activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA) as applicable.
- b. The ordering activity shall assign an impact level (per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems") prior to issuing the initial statement of work. Evaluations shall consider the extent to which each proposed service accommodates the necessary security controls based upon the assigned impact level. The Contractor awarded the SIN shall be capable of meeting at least the minimum security requirements assigned against a low-impact information system.
- c. The ordering activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded services. All FISMA certification, accreditation, and evaluation activities are the responsibility of the ordering activity.
- d. Ordering activities are responsible for determining any additional information assurance and security related requirements based on the nature of the application and relevant mandates. This may include incorporation of the appropriate security forms (e.g., a DD254) for any special clearance requirements and indoctrinations, such as Sensitive Compartmented Information (SCI). This may also include DOD Directives cited in specific orders and Blanket Purchase Agreements.



### **3. STANDARDS COMPLIANCE**

a. Vendor suitability for offering solutions through the Earth Observation Solutions SIN must be in accordance with the laws and standards when cited applicable to specific orders and Blanket Purchase Agreements. Offerings shall comply with cited Department of Defense (DoD) standards, Intelligence Community (IC) standards, Open Geospatial Consortium (OGC) standards (<http://www.opengeospatial.org/standards>), and other standards such as <https://nationalmap.gov/standards> stated as applicable in specific orders and Blanket Purchase Agreements.

### **4. ORDER**

a. Ordering activities/agencies may use written orders, Electronic Data Interchange (EDI) orders, Blanket Purchase Agreements, individual purchase orders, delivery orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

b. All delivery or task orders are subject to the terms and conditions of the contract. In the event of conflict between an order and the contract, the contract will take precedence.

### **5. PERFORMANCE OF SERVICES**

a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.

b. The Contractor agrees to render services during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.

c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.

d. Any Contractor travel required in the performance of Earth Observation Solutions must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts. All travel will be agreed upon with the client prior to the Contractor's travel.

### **6. INSPECTION/ACCEPTANCE**

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any product that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming item at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have



been discovered; and (2) before any substantial change occurs in the condition of the product, unless the change is due to the defect in the product. For inspection and acceptance, the latest versions in the contract apply of 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS and 552.212-4 - CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS.

## **7. COMMERCIAL SUPPLIER AGREEMENTS**

Commercial Supplier Agreements to include Enterprise User License Agreements or Terms of Service (TOS) agreements. The Contractor shall provide all Commercial Supplier Agreements to include Enterprise User License Agreements or Terms of Service (TOS) agreements in an editable Microsoft Office (Word) format for review prior to award.

## **8. WARRANTY**

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

\*\*Contractor is to insert commercial guarantee/warranty clauses.\*\*

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract. If no implied warranties are given, an express warranty of at least 60 days must be given in accordance with FAR 12.404(b)(2).

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

## **9. TECHNICAL SERVICES**

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number for the purpose of providing user assistance and guidance in the implementation of any software provided. The technical support number is available from \_\_\_\_\_to\_\_\_\_\_.

\*\*Provide telephone number and hours of operation for technical support hot line; indicate applicable time zone for the hours of operation—i.e., Eastern time, Central time, Mountain time or Pacific time.\*\*

## **10. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (MAY 2014) Rights in Data – General, may apply.

The Contractor shall comply with contract clause (52.204-21) to the Federal Acquisition Regulation (FAR) for the basic safeguarding of contractor information systems that process, store, or transmit Federal data received by the contract in performance of the contract. This includes contract documents and all information generated in the performance of the contract.



## **11. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite services.

### **12. b**

All work performed under the Earth Observation Solutions SIN shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

## **13. ORGANIZATIONAL CONFLICTS OF INTEREST**

### **a. Definitions.**

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## **14. INVOICES**

The Contractor, upon completion of the work ordered, shall submit invoices. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## **15. RESUMES**

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request or as required. The contractor is required to provide personnel meeting the qualifications specified under any labor categories quoted on a Time & Materials order or that form the Firm Fixed Price.

## **16. APPROVAL OF SUBCONTRACTS**

The ordering activity may require that the Contractor receive, from the ordering activity’s Contracting Officer, written consent before placing any subcontract for furnishing any of the



work called for in a task order.

#### **17. DESCRIPTION OF SERVICES AND PRICING**

a. The Contractor shall provide a description of offerings under Earth Observation Solutions SIN in the same manner as the Contractor sells to its commercial and ordering activity customers. The contractor shall provide a description and any applicable licensing should be included. If the contractor is proposing hourly rates (for hours that are not already rolled into a subscription), then a description of all corresponding commercial job titles (labor categories) for those individuals who will perform the service should be provided.

b. Pricing shall be in accordance with the Contractor's customary commercial practices; e.g., hourly rates, monthly rates, term rates, and/or fixed prices, minimum general experience and minimum education.

The following is an example of the manner in which the description of a commercial job title should be presented if applicable. Contractors shall only use personnel who meet the requirements or any equivalent combination of education and experience cited by the vendor:

EXAMPLE: Commercial Job Title: System Engineer

Minimum/General Experience: Three (3) years of technical experience which applies to systems analysis and design techniques for complex computer systems. Requires competence in all phases of systems analysis techniques, concepts and methods; also requires knowledge of available hardware, system software, input/output devices, structure and management practices.

Functional Responsibility: Guides users in formulating requirements, advises alternative approaches, conducts feasibility studies.

Minimum Education: Bachelor's Degree in Computer Science

c. Group 70 Information Technology Schedule is not to be used as a means to procure services which fall under the Brooks Act. The services offered under this SIN shall NOT include construction, alteration of real property or Architect-Engineering (A-E) services as set forth in FAR Part 36. FAR 36.6 distinguishes between mapping services of an A-E nature and mapping services which are not connected nor incidental to the traditionally accepted A-E Services that are allowable on Schedule 70.



### **PICTOMETRY GSA AWARDED PRICING :**

**Oblique Color Balanced Imagery:** All products listed below are part of Pictometry’s Oblique Color Balanced (“OCB”) product line. Our OCB products offer fully color-balanced, multi-directional libraries of geo-referenced oblique and nadir imagery with a nominal ground sample distance (GSD) of 3”, 4”, 6”, 9/6” and 9”. The libraries are delivered with Pictometry proprietary GIS software that allows the customer to navigate through the imagery including viewing objects, buildings, and structures from all four cardinal directions (oblique images) as well as directly overhead (nadir images). The Pictometry software also allows for the overlay of GIS vector data and the extraction of locations, measurements, and other GIS data directly from the imagery. To assist in navigation, the delivery includes a 1-meter visualization grade ortho-mosaic. The Oblique Color Balance Process applies an additional processing step that iterates through each image in the library to remove changes in color that occur due to atmospheric differences from one collection sortie to another. The resulting images have a very consistent appearance and therefore, the negative artifact of color banding due to those differences are removed. This process is based on the methodology developed by Pictometry and patented through US Patent 7,991,226.

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|---|
| <b>Product Description – OCB IMAGERY - 3in, 5-way, OCB (N5) Per Sector</b>  |
| Product includes 3-inch GSD color balanced oblique frame images (4-way), 3-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.25 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.24 feet/pixel, Middle Line: 0.28 feet/pixel, Back Line: 0.34 feet/pixel.  |
| <b>Product Description – OCB IMAGERY - 4in, 5-way, OCB (N5) Per Sector</b>  |
| Product includes 4-inch GSD color balanced oblique frame images (4-way), 4-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.32 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.33 feet/pixel, Middle Line: 0.36 feet/pixel, Back Line: 0.44 feet/pixel.  |
| <b>Product Description – OCB IMAGERY - 6in, 5-way, OCB (N5) Per Sector</b>  |
| Product includes 6-inch GSD color balanced oblique frame images (4-way), 6-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.5 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.46 feet/pixel, Middle Line: 0.51 feet/pixel, Back Line: 0.60 feet/pixel.   |
| <b>Product Description – OCB IMAGERY - 9in (6in Ortho), 5-way, OCB (C6) Per Sector</b>  |
| Product includes 9-inch GSD color balanced oblique frame images (4-way), 6-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.5 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.68 feet/pixel, Middle Line: 0.86 feet/pixel, Back Line: 0.1.24 feet/pixel. |
| <b>Product Description – OCB IMAGERY - 9in, 5-way, OCB (C5) Per Sector</b>  |
| Product includes 9-inch GSD color balanced oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/- 10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel. |





| SIN    | Product # | Product Name   | Sectors | GSA Price | LTI1*    | LTI2*    | LTI3 *   |
|--------|-----------|--|---------|-----------|----------|----------|----------|
| 132-33 | 8GV8o     | <b>IMAGERY - 3in, 5-way, OCB (N5) Per Sector</b>             | 0-24    | \$612.50  | \$518.75 | \$550.00 | \$581.25 |
|        |           |  | 25-49   | \$539.00  | \$456.50 | \$484.00 | \$511.50 |
|        |           |  | 50-99   | \$460.60  | \$390.10 | \$413.60 | \$437.10 |
|        |           |  | 100-299 | \$458.64  | \$388.44 | \$411.84 | \$435.24 |
|        |           |  | 300-599 | \$457.66  | \$387.61 | \$410.96 | \$434.31 |
|        |           |  | 600+    | \$456.68  | \$386.78 | \$410.08 | \$433.38 |
| SIN    | Product # | Product Name   | Sectors | GSA Price | LTI1*    | LTI2*    | LTI3 *   |
| 132-33 | 8GV8t     | <b>IMAGERY - 4in, 5-way, OCB (N5) Per Sector</b>             | 0-24    | \$465.50  | \$394.25 | \$418.00 | \$441.75 |
|        |           |  | 25-49   | \$438.06  | \$371.01 | \$393.36 | \$415.71 |
|        |           |  | 50-99   | \$409.64  | \$346.94 | \$367.84 | \$388.74 |
|        |           |  | 100-299 | \$407.68  | \$345.28 | \$366.08 | \$386.88 |
|        |           |  | 300-599 | \$407.68  | \$345.28 | \$366.08 | \$386.88 |
|        |           |  | 600+    | \$407.68  | \$345.28 | \$366.08 | \$386.88 |
| SIN    | Product # | Product Name   | Sectors | GSA Price | LTI1*    | LTI2*    | LTI3 *   |
| 132-33 | 8GV8y     | <b>IMAGERY - 6in, 5-way, OCB (N5) Per Sector</b>             | 0-24    | \$352.80  | \$298.80 | \$316.80 | \$334.80 |
|        |           |  | 25-49   | \$300.86  | \$254.81 | \$270.16 | \$285.51 |
|        |           |  | 50-99   | \$254.80  | \$215.80 | \$228.80 | \$241.80 |
|        |           |  | 100-299 | \$254.80  | \$215.80 | \$228.80 | \$241.80 |
|        |           |  | 300-599 | \$254.80  | \$215.80 | \$228.80 | \$241.80 |
|        |           |  | 600+    | \$254.80  | \$215.80 | \$228.80 | \$241.80 |
| SIN    | Product # | Product Name   | Sectors | GSA Price | LTI1*    | LTI2*    | LTI3 *   |
| 132-33 | 8GV93     | <b>IMAGERY - 9in (6in Ortho), 5-way, OCB (C6) Per Sector</b> | 0-24    | \$259.70  | \$219.95 | \$233.20 | \$246.45 |
|        |           |  | 25-49   | \$256.76  | \$217.46 | \$230.56 | \$243.66 |
|        |           |  | 50-99   | \$205.80  | \$174.30 | \$184.80 | \$195.30 |
|        |           |  | 100-299 | \$156.80  | \$132.80 | \$140.80 | \$148.80 |
|        |           |  | 300-599 | \$130.34  | \$110.39 | \$117.04 | \$123.69 |
|        |           |  | 600+    | \$128.38  | \$108.73 | \$115.28 | \$121.83 |
| SIN    | Product # | Product Name   | Sectors | GSA Price | LTI1*    | LTI2*    | LTI3 *   |



|        |       |   |         |          |          |          |          |
|--------|-------|---|---------|----------|----------|----------|----------|
| 132-33 | 8GV98 | IMAGERY - 9in, 5-way, OCB (C5) Per Sector | 0-24    | \$210.70 | \$178.45 | \$189.20 | \$199.95 |
|        |       |   | 25-49   | \$207.76 | \$175.96 | \$186.56 | \$197.16 |
|        |       |   | 50-99   | \$156.80 | \$132.80 | \$140.80 | \$148.80 |
|        |       |   | 100-299 | \$105.84 | \$89.64  | \$95.04  | \$100.44 |
|        |       |   | 300-599 | \$78.40  | \$66.40  | \$70.40  | \$74.40  |
|        |       |   | 600+    | \$78.40  | \$66.40  | \$70.40  | \$74.40  |

Prices include Industrial Funding Fee.

Prohibited or restricted airspace and rapidly changing or elevated terrain requires customized pricing, which is not provided on the Pictometry GSA Contract.

\* LTI = Long Term Incentives which are discounts available to Customers committing to multi-flight, long term contracts. (e.g. 3 flights over 6 years; 2 flights over 6 years; 3 or more, up to 6 consecutive flights over 6 years - LTI3 applies).

Eligibility for LTI discounts requires that all Projects (flights) are completed within a six year period and that successive Projects occurs at a maximum interval of three years, as either:

- 2 Projects contracted within 6 years (available LTI discounts: LTI1 and LTI3 for each remaining flight up to 6)
- 3 or more Projects within 6 years (available LTI discounts: LTI1, LTI2 and LTI3)

\* Any Project for the above imagery products which for which Pictometry is paid and exceeds more than \$20,000 includes the following at no additional charge:

- Pictometry's then current Disaster Response program
- Unlimited seats of Pictometry's Electronic Field Study GIS software
- One seat of Change Analysis software
- Ten hours of telephone support
- Customer Training (1 Administrative and 2 End-User classes)
- Base level integration products (e.g. ArcGIS® integration)



**AccuPLUS Imaging**

| <b>SIN</b> | <b>Product #</b>                               | <b>Product Name</b>                            | <b>Description</b>   | <b>GSA Price</b> |
|------------|--|--|--|------------------|
| 132-41     | AccuPLUS 3in - OSP - Per Square Mile (1-49 mi) | AccuPLUS 3in - OSP - Per Square Mile (1-49 mi) | Product includes: 3-inch GSD AccuPlus ortho mosaic tiles (GeoTIFF format), 3-inch GSD oblique frame images (4-way), 3-inch GSD orthogonal frame images, 3-inch GSD area-wide ortho mosaic (ECW format), Orthogonal GSD: 0.25 feet/pixel; Ortho-mosaic accuracy: 1.00 ft. RMSE (X or Y); 2.45 ft NSSDA 95%; meets or exceeds NMAS & ASPRS Class 1 at 1"=100'. Nominal Oblique GSD: 0.25 feet/pixel. Product to be produced using only onshore production labor and may include image capture in restricted airspace or other controlled access areas. Refer to attached terms and conditions. | \$1,050.63       |



|        |   |  |   |           |
|--------|---|--|---|-----------|
| 132-41 | AccuPLUS 3in -<br>OSP - Per Square<br>Mile (50-99 mi)   | AccuPLUS 3in -<br>OSP - Per<br>Square Mile (50-<br>99 mi)  | Product includes: 3-inch<br>GSD AccuPlus ortho<br>mosaic tiles (GeoTIFF<br>format), 3-inch GSD oblique<br>frame images (4-way),<br>3-inch GSD<br>orthogonal frame images,<br>3-inch GSD area-wide ortho<br>mosaic (ECW format),<br>Orthogonal GSD: 0.25<br>feet/pixel; Ortho-mosaic<br>accuracy: 1.00<br>ft. RMSE (X or Y); 2.45 ft<br>NSSDA 95%; meets or<br>exceeds NMAS & ASPRS<br>Class 1 at 1"=100'. Nominal<br>Oblique GSD: 0.25<br>feet/pixel. Product<br>to be produced using only<br>onshore production labor<br>and may include image<br>capture in restricted<br>airspace or other controlled<br>access areas.<br>Refer to attached terms and<br>conditions. | \$ 948.01 |
| 132-41 | AccuPLUS 3in -<br>OSP - Per Square<br>Mile (100-299 mi) | AccuPLUS 3in -<br>OSP - Per<br>Square Mile<br>(100-299 mi) | Product includes: 3-inch<br>GSD AccuPlus ortho<br>mosaic tiles (GeoTIFF<br>format), 3-inch GSD oblique<br>frame images (4-way),<br>3-inch GSD<br>orthogonal frame images,<br>3-inch GSD area-wide ortho<br>mosaic (ECW format),<br>Orthogonal GSD: 0.25<br>feet/pixel; Ortho-mosaic<br>accuracy: 1.00<br>ft. RMSE (X or Y); 2.45 ft<br>NSSDA 95%; meets or<br>exceeds NMAS & ASPRS<br>Class 1 at 1"=100'. Nominal<br>Oblique GSD: 0.25<br>feet/pixel. Product<br>to be produced using only<br>onshore production labor<br>and may include image<br>capture in restricted<br>airspace or other controlled<br>access areas.<br>Refer to attached terms and<br>conditions. | \$ 850.28 |



|               |  |  |   |                  |
|---------------|--|--|---|------------------|
| <p>132-41</p> | <p>AccuPLUS 3in -<br/>OSP - Per Square<br/>Mile (300-599 mi)</p> | <p>AccuPLUS 3in -<br/>OSP - Per<br/>Square Mile<br/>(300-599 mi)</p> | <p>Product includes: 3-inch GSD AccuPlus ortho mosaic tiles (GeoTIFF format), 3-inch GSD oblique frame images (4-way), 3-inch GSD orthogonal frame images, 3-inch GSD area-wide ortho mosaic (ECW format), Orthogonal GSD: 0.25 feet/pixel; Ortho-mosaic accuracy: 1.00 ft. RMSE (X or Y); 2.45 ft NSSDA 95%; meets or exceeds NMAS &amp; ASPRS Class 1 at 1"=100'. Nominal Oblique GSD: 0.25 feet/pixel. Product to be produced using only onshore production labor and may include image capture in restricted airspace or other controlled access areas. Refer to attached terms and conditions.</p> | <p>\$ 830.73</p> |
| <p>132-41</p> | <p>AccuPLUS 3in -<br/>OSP - Per Square<br/>Mile (&gt;600 mi)</p> | <p>AccuPLUS 3in -<br/>OSP - Per<br/>Square Mile<br/>(&gt;600 mi)</p> | <p>Product includes: 3-inch GSD AccuPlus ortho mosaic tiles (GeoTIFF format), 3-inch GSD oblique frame images (4-way), 3-inch GSD orthogonal frame images, 3-inch GSD area-wide ortho mosaic (ECW format), Orthogonal GSD: 0.25 feet/pixel; Ortho-mosaic accuracy: 1.00 ft. RMSE (X or Y); 2.45 ft NSSDA 95%; meets or exceeds NMAS &amp; ASPRS Class 1 at 1"=100'. Nominal Oblique GSD: 0.25 feet/pixel. Product to be produced using only onshore production labor and may include image capture in restricted airspace or other controlled access areas. Refer to attached terms and conditions.</p> | <p>\$ 801.41</p> |

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)  
 AGREEMENT BETWEEN  
 PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND  
 HOWARD COUNTY, MD (“CUSTOMER”)**

1. Pursuant to the GSA Federal Supply Schedule referenced above, the following order being placed is subject to the terms and conditions of the Schedule (if purchasing Open Market items some exceptions may apply).
2. This order form (“Order Form”), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Software License Agreement

Section C: Non-Standard Terms and Conditions (applicable to Open Market items only)

(all of which, collectively, constitute this “Agreement”) set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

3. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Non-Standard Terms and Conditions; Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading ‘Section B: License Terms’; and Order Form.
4. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

| CUSTOMER NOTICE ADDRESS                  | PICTOMETRY NOTICE ADDRESS                 |
|--|---|
| 8930 Stanford Blvd                       | 25 Methodist Hill Drive                   |
| Columbia, MD 21045                       | Rochester, NY 14623                       |
| Attn: Robert Slivinsky, GIS Coordinator  | Attn: General Counsel                     |
| Phone: (410)313-3094 Fax: (410) 313-3291 | Phone: (585) 486-0093 Fax: (585) 486-0098 |

Either party may change their respective notice address by giving written notice of such change to the other party at the other party’s then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

5. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
6. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
7. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
8. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
9. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

- 10. Pictometry shall not be responsible for any failure on its part to perform due to unforeseen circumstances or to causes beyond Pictometry's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, weather, floods, accidents, strikes, failure to obtain export licenses or shortages or delays of transportation, facilities, fuel, energy, supplies, labor or materials. In the event of any such delay, Pictometry may defer performance for a period of time reasonably related to the time and nature of the cause of the delay.
- 11. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the “Effective Date.”

**PARTIES:**

|                          |  |
|--------------------------|--|
| <b>CUSTOMER</b>          | <b>PICTOMETRY</b>                        |
| <b>HOWARD COUNTY, MD</b> | <b>PICTOMETRY INTERNATIONAL CORP.</b>    |
| (entity type)            | a Delaware corporation                   |
| <b>SIGNATURE:</b>        | <b>SIGNATURE:</b>                        |
| <b>NAME:</b>             | <b>NAME:</b>                             |
| <b>TITLE:</b>            | <b>TITLE:</b>                            |
| <b>DATE:</b>             | <b>EXECUTION DATE:</b>                   |
|                          | <b>DATE OF RECEIPT (EFFECTIVE DATE):</b> |

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

**SECTION A**

**PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS**

Pictometry International Corp.  
25 Methodist Hill Drive  
Rochester, NY 14623

|                |
|----------------|
| <b>ORDER #</b> |
| C13203148      |

|                                   |
|-----------------------------------|
| <b>BILL TO</b>                    |
| Howard County, MD                 |
| Robert Slivinsky, GIS Coordinator |
| 8930 Stanford Blvd                |
| Columbia, MD 21045                |
| (410)313-3094                     |
| rslivinsky@howardcountymd.gov     |

|                                   |
|-----------------------------------|
| <b>SHIP TO</b>                    |
| Howard County, MD                 |
| Robert Slivinsky, GIS Coordinator |
| 8930 Stanford Blvd                |
| Columbia, MD 21045                |
| (410)313-3094                     |
| rslivinsky@howardcountymd.gov     |

|                    |                  |                             |
|--------------------|------------------|-----------------------------|
| <b>CUSTOMER ID</b> | <b>SALES REP</b> | <b>FREQUENCY OF PROJECT</b> |
| A117013            | jatki            | Biennial                    |

|                            |           |
|----------------------------|-----------|
| <b>US GSA CONTRACT NO.</b> | 35F-0801N |
|----------------------------|-----------|

| FIRST PROJECT                   |  |   |             |   |                          |
|---------------------------------|--|---|-------------|---|--------------------------|
| QTY                             | PRODUCT NAME   | PRODUCT DESCRIPTION   | SALES PRICE | DISCOUNT PRICE (%)                            | TOTAL PRICE <sup>1</sup> |
| 299                             | IMAGERY - 3in, 5-way, OCB (N5) Per Sector                  | Product includes 3-inch GSD color balanced oblique frame images (4-way), 3-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.25 feet/pixel; Nominal Oblique GSD (all values +/- 10%): Front Line: 0.24 feet/pixel, Middle Line: 0.28 feet/pixel, Back Line: 0.34 feet/pixel.   | \$468.00    | \$388.44 (17% – Long Term Incentive Discount) | \$116,143.56             |
| 299                             | IMAGERY - 9in, 5-way, OCB (C5) Per Sector                  | Product includes 9-inch GSD color balanced oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/- 10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel.   | \$108.00    | \$89.64 (17% – Long Term Incentive Discount)  | \$26,802.36              |
| 1                               | Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support | Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. | \$0.00      |   | \$0.00                   |
| 1                               | RapidAccess - Disaster Response Program                    | RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  | \$0.00      |   | \$0.00                   |
| 1                               | Media Drive Capacity 931G - Drive Model 1T - USBPOWER*     | External USB 2.0-powered Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately. Applicable Terms and Conditions: Order Form   | \$295.00    | \$0.00 (100%)                                 | \$0.00                   |
| <b>SUBTOTAL – FIRST PROJECT</b> |  |   |             |   | <b>\$142,945.92</b>      |

| SECOND PROJECT |   |  |             |   |                          |
|----------------|---|--|-------------|---|--------------------------|
| QTY            | PRODUCT NAME                              | PRODUCT DESCRIPTION  | SALES PRICE | DISCOUNT PRICE (%)                            | TOTAL PRICE <sup>1</sup> |
| 299            | IMAGERY - 3in, 5-way, OCB (N5) Per Sector | Product includes 3-inch GSD color balanced oblique frame images (4-way), 3-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.25 feet/pixel; Nominal Oblique GSD | \$468.00    | \$411.84 (12% – Long Term Incentive Discount) | \$123,140.16             |



**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

|                                  |  |   |          |   |                     |
|----------------------------------|--|---|----------|---|---------------------|
|                                  |  | (all values +/-10%): Front Line: 0.24 feet/pixel, Middle Line: 0.28 feet/pixel, Back Line: 0.34 feet/pixel.   |          |   |                     |
| 299                              | IMAGERY - 9in, 5-way, OCB (C5) Per Sector                  | Product includes 9-inch GSD color balanced oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/- 10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel.   | \$108.00 | \$95.04<br>(12% – Long Term Incentive Discount) | \$28,416.96         |
| 1                                | Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support | Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. | \$0.00   |   | \$0.00              |
| 1                                | RapidAccess - Disaster Response Program                    | RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  | \$0.00   |   | \$0.00              |
| 1                                | Media Drive Capacity 931G - Drive Model 1T - USBPOWER*     | External USB 2.0-powered Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately. Applicable Terms and Conditions: Order Form   | \$295.00 | \$0.00<br>(100% )                               | \$0.00              |
| <b>SUBTOTAL – SECOND PROJECT</b> |  |   |          |   | <b>\$151,557.12</b> |

**THIRD PROJECT**

| QTY | PRODUCT NAME   | PRODUCT DESCRIPTION   | SALES PRICE | DISCOUNT PRICE (%)                              | TOTAL PRICE <sup>1</sup> |
|-----|--|---|-------------|---|--------------------------|
| 299 | IMAGERY - 3in, 5-way, OCB (N5) Per Sector                  | Product includes 3-inch GSD color balanced oblique frame images (4-way), 3-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.25 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.24 feet/pixel, Middle Line: 0.28 feet/pixel, Back Line: 0.34 feet/pixel.  | \$468.00    | \$435.24<br>(7% – Long Term Incentive Discount) | \$130,136.76             |
| 299 | IMAGERY - 9in, 5-way, OCB (C5) Per Sector                  | Product includes 9-inch GSD color balanced oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/- 10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel.   | \$108.00    | \$100.44<br>(7% – Long Term Incentive Discount) | \$30,031.56              |
| 1   | Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support | Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. | \$0.00      |   | \$0.00                   |
| 1   | RapidAccess - Disaster Response Program                    | RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  | \$0.00      |   | \$0.00                   |
| 1   | Media Drive Capacity 931G - Drive Model 1T - USBPOWER*     | External USB 2.0-powered Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately.   | \$295.00    | \$0.00<br>(100% )                               | \$0.00                   |

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

|   |  |              |
|---|--|--------------|
| Applicable Terms and Conditions: Order Form |  |              |
| SUBTOTAL – THIRD PROJECT                    |  | \$160,168.32 |

|   |              |              |
|---|--------------|--------------|
| Thank you for choosing Pictometry as your service provider. | <b>TOTAL</b> | \$454,671.36 |
|---|--------------|--------------|

<sup>1</sup>Amount per product = ((1-Discount %) \* Qty \* List Price)

**\*OPEN MARKET ITEMS ARE ALSO KNOWN AS INCIDENTAL ITEMS, NON-CONTRACT ITEMS, AND OTHER DIRECT COSTS (ODS’S). OPEN MARKET ITEMS ARE NOT ON THE GSA CONTRACT AND THEREFORE SHOULD BE TREATED AS OPEN MARKET PURCHASES. THIS AGREEMENT CONTAINS OPEN MARKET ITEMS. OPEN MARKET ITEMS ARE ALLOWED UNDER CIRCUMSTANCES SET FORTH IN FAR 8.402(F). OPEN MARKET ITEMS ARE SUBJECT TO PICTOMETRY’S APPLICABLE LICENSE TERMS AND CONDITIONS.**

**FEES; PAYMENT TERMS**

All amounts due to Pictometry pursuant to this Agreement (“Fees”) are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing.

**FIRST PROJECT**

|   |                     |
|---|---------------------|
| Due at Signing                                  | \$17,868.24         |
| Due at Initial Shipment of Imagery              | \$53,604.72         |
| Due at First Anniversary of Shipment of Imagery | \$71,472.96         |
| <b>Total Payments</b>                           | <b>\$142,945.92</b> |

**SECOND PROJECT**

|   |                     |
|---|---------------------|
| Due at Initial Shipment of Imagery              | \$75,778.56         |
| Due at First Anniversary of Shipment of Imagery | \$75,778.56         |
| <b>Total Payments</b>                           | <b>\$151,557.12</b> |

**THIRD PROJECT**

|   |                     |
|---|---------------------|
| Due at Initial Shipment of Imagery              | \$80,084.16         |
| Due at First Anniversary of Shipment of Imagery | \$80,084.16         |
| <b>Total Payments</b>                           | <b>\$160,168.32</b> |

**PRODUCT PARAMETERS**

**FIRST PROJECT**

**IMAGERY**

**Product:** IMAGERY - 3in, 5-way, OCB (N5) Per Sector  
*Leaf:* Leaf Off: Less than 30% leaf cover

**Product:** IMAGERY - 9in, 5-way, OCB (C5) Per Sector  
*Leaf:* Leaf Off: Less than 30% leaf cover

**SECOND PROJECT**

**IMAGERY**

**Product:** IMAGERY - 3in, 5-way, OCB (N5) Per Sector  
*Leaf:* Leaf Off: Less than 30% leaf cover

**Product:** IMAGERY - 9in, 5-way, OCB (C5) Per Sector  
*Leaf:* Leaf Off: Less than 30% leaf cover

## GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)

### THIRD PROJECT IMAGERY

**Product:**

*Leaf:*

**IMAGERY - 3in, 5-way, OCB (N5) Per Sector**

Leaf Off: Less than 30% leaf cover

**Product:**

*Leaf:*

**IMAGERY - 9in, 5-way, OCB (C5) Per Sector**

Leaf Off: Less than 30% leaf cover

### STANDARD ORTHO MOSAIC PRODUCTS

Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible cutlines along mosaic seams resulting from the following types of artifacts:

- i. Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- ii. Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- iii. Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- iv. Seasonal variations caused by images taken at different times during a season, or during different seasons;
- v. Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- vi. Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- vii. Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- viii. Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

### RapidAccess—Disaster Response Program (“DRP”)

Customer is eligible for DRP described below from the Effective Date through the second anniversary of the initial Project delivery. Following payment to Pictometry of amounts due with respect to each subsequent Project, Customer will be eligible for the then-current DRP for a period of two years from delivery of such subsequent Project. Customer must be in good-standing with Pictometry to maintain eligibility for DRP.

- A. Disaster Coverage Imagery at No Additional Charge** – Pictometry will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for DRP:
- Hurricane:** areas affected by hurricanes of Category 2 and higher.
  - Tornado:** areas affected by tornados rated EF4 and higher.
  - Terrorist:** areas affected by damage from terrorist attack.
  - Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.
  - Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis.
- B. Discounted Rate** – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates.
- C. Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

# GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)

## SECTION B

## LICENSE TERMS

### PICTOMETRY DELIVERED CONTENT TERMS AND CONDITIONS OF USE

These Pictometry Delivered Content Terms and Conditions of Use (the “Delivered Content Terms and Conditions”), in combination with the corresponding Agreement into which these terms are incorporated, collectively set forth the terms and conditions that govern use of Delivered Content (as hereinafter defined) for use within computing environments operated by parties other than Pictometry. As used in the Delivered Content Terms and Conditions the terms “you” and “your” in uppercase or lowercase shall mean the Customer that entered into the Agreement into which the Delivered Content Terms and Conditions are incorporated.

#### 1. DEFINITIONS

- 1.1 “Authorized Subdivision” means, if you are a county or a non-state consortium of counties, any political unit or subdivision located totally or substantially within your boundaries that you authorize to have access to Delivered Content pursuant to the Delivered Content Terms and Conditions.
- 1.2 “Authorized System” means a workstation or server that meets each of the following criteria (i) it is owned or leased by you or an Authorized Subdivision, (ii) it is located within and only accessible from facilities that are owned or leased by you or an Authorized Subdivision, and (iii) it is under the control of and may only be used by you or Authorized Subdivisions.
- 1.3 “Authorized User” means any employee of you or Authorized Subdivisions that is authorized by you to have access to the Delivered Content through an Authorized System.
- 1.4 “Delivered Content” means the images, metadata, data layers, models, reports and other geographic or structural visualizations or embodiments included in, provided with, or derived from the information delivered to you by or on behalf of Pictometry pursuant to the Agreement.
- 1.5 “Project Participant” means any employee or contractor of persons or entities performing services for compensation for you or an Authorized Subdivision that has been identified by written notice to Pictometry prior to being granted access to Delivered Content and, unless Pictometry expressly waives such requirement for any individual, has entered into a written agreement with Pictometry authorizing such access.

#### 2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 2.1 Subject to the terms and conditions of the Agreement, you are granted nonexclusive, nontransferable, limited rights to:
  - (a) install the Delivered Content on Authorized Systems;
  - (b) permit access and use of the Delivered Content through Authorized Systems by:
    - (i) Authorized Users for performance of public responsibilities of you or Authorized Subdivisions that are to be performed entirely within facilities of you or Authorized Subdivisions;
    - (ii) Project Participants under the supervision of Authorized Users for performance of tasks or preparation of materials using only hard copies (or jpg copies) of Delivered Content solely for fulfilling public responsibilities of you or Authorized Subdivisions to be performed entirely within facilities of you or Authorized Subdivisions; and
    - (iii) individual members of the public, but only through Authorized Users and solely for the purpose of making hard copies or jpg copies of images of individual properties or structures (but not bulk orders of multiple properties or structures) to the individual members of the public requesting them.
- 2.2 You may not reproduce, distribute or make derivative works based upon the Delivered Content in any medium, except as expressly permitted in the Delivered Content Terms and Conditions.
- 2.3 You may not offer any part of the Delivered Content for commercial resale or commercial redistribution in any medium.
- 2.4 You may not distribute or otherwise make available any Delivered Content to Google or its affiliates, either directly or indirectly.
- 2.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 2.6 You may not remove, alter or obscure copyright notices or other notices contained in the Delivered Content.
- 2.7 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in Delivered Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Delivered Content acquire any proprietary interest in the Delivered Content, or any copies thereof, except the limited use rights granted herein.

#### 3. OBLIGATIONS OF CUSTOMER

- 3.1 **Geographic Data.** If available, you agree to provide to Pictometry geographic data in industry standard format (e.g., shape, DBF) including, but not limited to, digital elevation models, street centerline maps, tax parcel maps and centroids, which data, to the extent practicable, shall be incorporated into the Delivered Content. You agree that any of this data that is owned by you may be distributed and modified by Pictometry as part of its products and services, provided that at no time shall Pictometry claim ownership of that data.
- 3.2 **Notification.** You shall (a) notify Pictometry in writing of any claims or proceedings involving any of the Delivered Content within ten (10) days after you learn of the claim or proceeding, and (b) report promptly to Pictometry all claimed or suspected defects in Delivered Content.
- 3.3 **Authorized User Compliance.** You shall at all times be responsible for compliance by each Authorized User with the Delivered Content Terms and Conditions.
- 3.4 **Authorized Subdivision Compliance.** You shall at all times be responsible for compliance by each Authorized Subdivision with the Delivered Content Terms and Conditions.
- 3.5 **Project Participants.** Each notice to Pictometry identifying a potential Project Participant shall include a detailed description of the scope and nature of the Project Participants’ planned work and the intended use of the Delivered Content in such work. Pictometry retains the right to restrict or revoke access to Delivered Content by any Project Participant who does not comply with the terms of the Delivered Content Terms and Conditions.

#### 4. LICENSE DURATION; EFFECT OF TERMINATION

- 4.1 **Term.** The license granted to you in the Delivered Content Terms and Conditions is perpetual, subject to Pictometry’s right to terminate the license in the event you do not pay in full the Fees specified elsewhere in the Agreement, the Agreement is terminated for any reason other than a breach of the Agreement by Pictometry, or as otherwise provided in the Agreement.
- 4.2 **Effect of Termination.** Upon termination of the license granted to you in the Delivered Content Terms and Conditions, you shall immediately cease all use of the Delivered Content, promptly purge all copies of the Delivered Content from all workstations and servers on which any of it may be stored or available at the time, and return hard drive/media containing Delivered Content to Pictometry.

#### 5. TRADEMARKS; CONFIDENTIALITY

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

- 5.1 **Use of Pictometry’s Marks.** You agree not to attach any additional trademarks, trade names, logos or designations to any Delivered Content or to any copies of any Delivered Content without prior written approval from Pictometry. You may, however, include an appropriate government seal and your contact information so long as the seal and contact information in no way obscure or deface the Pictometry marks. You further agree that you will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Delivered Content. Your nonexclusive right to use Pictometry’s trademarks, trade name, logos, and designations are coterminous with the license granted to you in the Delivered Content Terms.
- 5.2 **Confidentiality of Delivered Content.** The Delivered Content consists of commercially valuable, proprietary products owned by Pictometry, the design and development of which reflect an investment of considerable time, effort, and money. The Delivered Content is treated by Pictometry as confidential and contains substantial trade secrets of Pictometry. You agree that you will not disclose, provide a copy of, or disseminate the Delivered Content (other than as expressly permitted in the Delivered Content Terms and Conditions) or any part thereof to any person in any manner or for any purpose inconsistent with the license granted to you in the Delivered Content Terms and Conditions. You agree to use your best efforts to assure that your personnel, and any others afforded access to the Delivered Content, protect the Delivered Content against unauthorized use, disclosure, copying, and dissemination, and that access to the Delivered Content and each part thereof will be strictly limited.

**6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES**

- 6.1 **Limited Warranties; Exclusive Remedy.** Pictometry warrants that the Delivered Content will contain true and usable copies of the designated imagery as of the date of capture. As the sole and exclusive remedy for any breach of the foregoing warranty, Pictometry shall use reasonable efforts to correct any deficiency that precludes use of the Delivered Content in the manner intended.
- 6.2 **Disclaimer of Other Warranties.** Except as provided in Section 6.1, above, THE DELIVERED CONTENT IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS." PICTOMETRY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 6.3 **Limitation of Liability.** With respect to any other claims that you may have or assert against Pictometry on any matter relating to the Delivered Content, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry in payment for Delivered Content during the immediately preceding twenty-four (24) month period.

**7. MISCELLANEOUS PROVISIONS**

- 7.1 **Restricted Rights.** Delivered Content acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable.
- 7.2 **Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles.

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[END OF DELIVERED CONTENT TERMS AND CONDITIONS]

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N ("SCHEDULE")**

**SECTION B**

**LICENSE TERMS**

**PICTOMETRY SOFTWARE  
LICENSE AGREEMENT**

**PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE. BY USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.**

1. **GENERAL.** The software ("Pictometry Software") and any written materials that accompany the software ("Documentation") in any media or form are licensed, not sold, to you by Pictometry International Corp. ("Pictometry") for use only under the terms of this License. Pictometry reserves all rights not expressly granted to you in this License.
2. **LICENSE.** Subject to the terms and conditions of this License, you are granted a limited, non-transferable, terminable, non-sublicenseable, non-exclusive license to install and use the Pictometry Software and the Documentation (collectively, the "Proprietary Materials") solely for internal use. Use of the functionality provided by the Pictometry Software other than for your internal use is prohibited, except with the prior written approval of Pictometry. You may make one copy of the Pictometry Software in machine-readable form for backup purposes only; provided that the backup copy must include all copyright and other proprietary notices contained in the original. You will not and will not enable others to decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, create derivative works of, or tamper with or disable any security or monitoring features within the Pictometry Software. Any attempt to do so is a violation of the rights of Pictometry and its licensors.
3. **TITLE.** The Proprietary Materials are confidential information of, trade secrets of, and are proprietary to Pictometry. Title to the Proprietary Materials is and will remain in Pictometry and its licensors. All applicable rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights in the Proprietary Materials are and will remain in Pictometry and its licensors. You will not assert any right, title or interest in the Proprietary Materials provided to you under this License, except for the express license granted to you hereunder. You will not remove any copyright or other proprietary notice or legend contained on or included in any Proprietary Materials and you will reproduce all such information on all copies made hereunder. You will keep the Proprietary Materials free of all claims, liens and encumbrances.
4. **DISCLAIMERS OF WARRANTY.** USE OF THE PICTOMETRY SOFTWARE IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PICTOMETRY SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PICTOMETRY HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PICTOMETRY SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. PICTOMETRY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR PROVIDED BY THE PICTOMETRY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PICTOMETRY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROPRIETARY MATERIALS WILL BE CORRECTED.
5. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
6. **TERMINATION.** This License will terminate automatically without notice from Pictometry if you fail to comply with any term of this License. Upon the termination of this License, you will cease all use of the Pictometry Software and destroy all copies, full or partial, of the Proprietary Materials.
7. **MISCELLANEOUS PROVISIONS.**
  - A. **Restricted Rights.** Pictometry Software acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable. Pictometry must be notified in advance of any license grants to United States federal governmental entities. The Pictometry Software is developed for general use in a variety of applications and is not developed or intended for use in any inherently dangerous applications or applications that could lead to property damage, personal injury or death. If you use the Pictometry Software in such applications, then you will be responsible for taking all appropriate fail-safe, backup, redundancy, and other measures to ensure the safe use of the Pictometry Software in such applications, including but not limited to, in any nuclear, aviation, mass transit, public safety or medical applications.
  - B. **Foreign Trade Restrictions.** The parties acknowledge that certain information, software technology, accompanying documentation and technical information may be subject to United States export control laws. You will not directly or indirectly export or re-export the Pictometry Software in violation of the Export Administration Regulations of the U.S. Department of Commerce.
  - C. **Governing Law.** This License will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles.
  - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
  - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

- F. **Force Majeure.** Neither party will be liable for any costs or damages due to nonperformance under this License arising out of any cause not within the reasonable control of such party and without its fault or negligence. Neither party will be liable for any delay or failure in the performance of its obligations under this License that directly results from any failure of the other party to perform its obligations as set forth in this License.
- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

**[END OF SOFTWARE LICENSE AGREEMENT]**

**GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N (“SCHEDULE”)**

**SECTION C**

**NON-STANDARD TERMS AND CONDITIONS**

1. Applicable Law: Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Maryland, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of Maryland in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

2. Non-appropriation of Funds. Notwithstanding anything herein to the contrary, in the event that the funds due for subsequent projects and related deliverables under the terms and conditions of this Agreement are not lawfully appropriated, the following provisions shall apply:

a. Customer shall provide Pictometry with written documentation of non-appropriation of funds from its funding source prior to commencement of a subsequent project;

b. This Agreement shall remain in full force and effect, however commencement of the subsequent project shall be deemed postponed until such time as funds for the subsequent project have been appropriated and all other sums due under the terms and conditions of this Agreement have been paid by Customer. In the event that the postponement exceeds eighteen months, Pictometry reserves the right to terminate any and all obligations with respect to the postponed project and all subsequent projects included in this Agreement; and

c. If Customer, or any party authorized under the terms and conditions of this Agreement to use the licensed products set forth in Section A, is in possession of licensed products for which Pictometry has not been fully compensated in accordance with the payment terms of this Agreement, Customer or such authorized party shall immediately cease use of those licensed products, purge those licensed products from all Customer and authorized party computers, and return those licensed products to Pictometry.

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[END OF NON-STANDARD TERMS AND CONDITIONS]



GSA FEDERAL SUPPLY SCHEDULE CONTRACT NUMBER GS-35F-0801N ("SCHEDULE")

MAP(S)

